

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD**

<p>DHSC, LLC d/b/a AFFINITY MEDICAL CENTER, HOSPITAL OF BARSTOW, INC. d/b/a BARSTOW COMMUNITY HOSPITAL, WATSONVILLE HOSPITAL CORPORATION d/b/a WATSONVILLE COMMUNITY HOSPITAL, COMMUNITY HEALTH SYSTEMS, INC. and / or COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers</p> <p>and</p> <p>NATIONAL NURSES ORGANIZING COMMITTEE (NNOC), CALIFORNIA NURSES ASSOCIATION / NATIONAL NURSES ORGANIZING COMMITTEE (CNA/NNOC) and CALIFORNIA NURSES ASSOCIATION (CNA), NATIONAL NURSES UNITED</p>	08-CA-167313
<p>GREENBRIER VMC, LLC d/b/a GREENBRIER VALLEY MEDICAL CENTER, COMMUNITY HEALTH SYSTEMS, INC., and COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers</p> <p>and</p> <p>NATIONAL NURSES ORGANIZING COMMITTEE (NNOC), AFL-CIO</p>	10-CA-167330
<p>BLUEFIELD HOSPITAL COMPANY, LLC d/b/a BLUEFIELD REGIONAL MEDICAL CENTER, COMMUNITY HEALTH SYSTEMS, INC., and COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers</p> <p>and</p>	10-CA-168085

NATIONAL NURSES ORGANIZING COMMITTEE (NNOC), AFL-CIO	
HOSPITAL OF BARSTOW, INC. D/B/A BARSTOW COMMUNITY HOSPITAL, COMMUNITY HEALTH SYSTEMS, INC., and / or COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers and CALIFORNIA NURSES ASSOCIATION / NATIONAL NURSES ORGANIZING COMMITTEE (CNA / NNOC)	31-CA-167522

RESPONDENT HOSPITALS' RESPONSE TO GENERAL COUNSEL'S REQUEST FOR SPECIAL PERMISSION TO APPEAL, AND CROSS-MOTION FOR SUMMARY JUDGMENT

As Respondents in the above-captioned cases, DHSC, LLC d/b/a Affinity Medical Center (hereafter, "Affinity"), Hospital of Barstow, Inc. d/b/a Barstow Community Hospital (hereafter, "Barstow"), Bluefield Hospital Company, LLC d/b/a Bluefield Regional Medical Center (hereafter, "Bluefield"), Greenbrier VMC, LLC d/b/a Greenbrier Valley Medical Center (hereafter, "Greenbrier") and Watsonville Hospital Corporation d/b/a Watsonville Community Hospital (hereafter, "Watsonville")¹ hereby respond, by and through the Undersigned Counsel, to the General Counsel's Request for Special Permission to Appeal Order of Administrative Law

¹ Any given responding / moving party may hereafter be referred to individually as the "Hospital," whereas the responding / moving parties may hereafter be referred to collectively as the "Hospitals."

Judge (hereafter, at times, the “Appeal”) and cross-move for summary judgment in connection with the below-referenced Complaints.

BACKGROUND

1.) The Consolidated Unfair Labor Practice Proceedings Before Administrative Law Judge Eleanor Laws

On October 19, 2015, the General Counsel issued a Consolidated Complaint in which he alleged that the Hospitals, together with CHS, Inc. and / or CHSPSC, LLC as an alleged single employer and / or a joint employer, violated the National Labor Relations Act, as amended (hereafter, the “Act”), in a variety of ways. The Hospitals filed timely Answers in which they denied any violations of the Act and additionally denied the existence of any single employer and / or joint employer relationship. A hearing was scheduled to commence on December 15, 2015, but did not go forward that day because of a serious injury suffered by one of the lead attorneys on November 23, 2015. By an Order issued on November 30, 2015, the hearing was rescheduled for January 11, 2016.

On December 28, 2015, the Regional Director for Region 8, which was designated long ago by the General Counsel’s office as the coordinator of the proceedings that ultimately bred the Complaint, issued an Order by which he cancelled the hearing date of January 11th and rescheduled the hearing for February 29, 2016. As explained by an e-mail that was sent by

Counsel for the General Counsel to the Administrative Law Judge assigned to the case at the time, the cancellation was prompted by a new Unfair Labor Practice Charge filed on December 15, 2015 against, amongst others, Affinity (Case No. 08-CA-166039) and the fact the allegations “arguably have Jefferson Chemical implications.” A copy of the e-mail and the Regional Director’s Order is attached hereto, and made a part hereof, as “Exhibit A.” On February 5, 2016, the General Counsel’s office informed Affinity of a merit determination in the Charging Party’s favor, and that same day, issued an Amended Consolidated Complaint (hereafter, the “Amended Complaint”) that repeated most, but not all of the allegations set forth by the Complaint and incorporated the new allegations advanced against Affinity as part of Case No. 08-CA-166039. The Hospitals filed timely Answers, which were substantially the same as the Answers filed in response to the Complaint. The hearing opened before Administrative Law Judge Eleanor Laws on February 29, 2016 in Cleveland, Ohio, and consistent with a Case Management Order previously issued by Judge Laws, focused upon the unfair labor practice allegations related to Affinity, which is located in Massillon, Ohio.

2.) The New Unfair Labor Practice Charges

At the time the record opened before Judge Laws on February 29, 2016, as detailed below, a number of Unfair Labor Practice Charges were pending against the Hospitals and, by the General Counsel's own assessment, set forth allegations that were intertwined with those that comprised the Amended Complaint before Judge Laws.

A.) Case No. 31-CA-167522: Barstow

On January 8, 2016, the California Nurses Association / National Nurses Organizing Committee (CNA / NNOC) filed an Unfair Labor Practice Charge, which was assigned Case No. 31-CA-167522, and set forth alleged violations of Section 8(a)(5) of the Act. In particular, the Charging Party alleged that, on or about July 10, 2015, Barstow, together with CHS, Inc. and / or CHSPSC as an alleged single employer and / or joint employer, unilaterally revised a disciplinary policy, and on the same day, imposed related discipline upon RNs employed by the Hospital. The Charging Party also alleged related refusals to provide information.

B.) Case No. 08-CA-167313: Affinity, Barstow and Watsonville

On January 11, 2016, an organization styled as California Nurses Association / National Nurses Organizing Committee, California Nurses Association, and National Nurses Organizing Committee filed an Unfair

Labor Practice Charge, which was assigned Case No. 08-CA-167313. The Charging Party alleged that Affinity, Barstow and Watsonville, each as an alleged single employer and / or joint employer with CHS, Inc. and / or CHSPSC and / or Quorum Health Corporation and / or QHCCS, LLC, violated Section 8(a)(5) of the Act. More specifically, the Charging Party alleged that, beginning in September of 2015, each facility had refused to provide information related to a spinoff that changed the identity of their owner, and around November of 2015, each facility had unilaterally offered a new employee discount program and made changes to represented employees' retirements benefits.

C.) Case Nos. 10-CA-167330 and 10-CA-168085: Bluefield and Greenbrier

On January 20, 2016, the National Nurses Organizing Committee (NNOC) filed an Unfair Labor Practice Charge, which was assigned Case No. 10-CA-168085. The Charging Party alleged that, from about March 6, 2015 through November 8, 2015, Bluefield, together with CHS, Inc. and / or CHSPSC as an alleged single employer and / or joint employer, violated Section 8(a)(5) of the Act by failing and refusing to bargain in good faith with the Charging Party. On January 11, 2016, the same organization filed an Unfair Labor Practice Charge against Greenbrier and Bluefield, which was assigned Case No. 10-CA-167330, but amended on January 20, 2016, to

leave Greenbrier, together with CHS, Inc. and / or CHSPSC as an alleged single employer and / or joint employer, as the only Charged Party. As amended, the Charging Party alleged that, from about February 27, 2015 through November 13, 2015, Greenbrier violated Section 8(a)(5) of the Act by failing and refusing to bargain in good faith with the Charging Party. The Charging Party alleged further violations of Section 8(a)(5) of the Act in that, purportedly on or about September 2, 2015, Greenbrier engaged in various refusals to bargain in connection with disciplinary actions allegedly imposed upon Ms. Julie Hoffman Jackson on August 6, 2015.

3.) The General Counsel's Solicitation of Jefferson Chemical Waivers

The fact that the Unfair Labor Practice Charges detailed above (hereafter, collectively at times, the "Charges") were pending during the days leading up to the hearing before Judge Laws did not go unnoticed by the General Counsel's office. A copy of the Charges is attached hereto, and made a part hereof, as "Exhibit B." Thus, on January 25, 2016, the General Counsel requested that the Hospitals sign a Jefferson Chemical waiver in connection with Case Nos. 08-CA-167313, 10-CA-167330 and 31-CA-167522. Similarly, on January 29, 2016, the General Counsel requested that Bluefield sign a Jefferson Chemical waiver in connection with Case No. 10-CA-168085. The Hospitals promptly informed the General Counsel that

they would not agree to the waivers and further advised that, to the extent the General Counsel found merit to any of the allegations encompassed by the Charges, and later sought to prosecute the allegations as part of a new and separate case, they would invoke Jefferson Chemical and seek dismissal of the complaint. A copy of counsels' related correspondence is attached hereto, and made a part hereof, as "Exhibit C."

On February 16, 2016, as part of the proceedings before Judge Laws, the General Counsel's office filed what it styled as a "Motion for Declaratory Ruling Regarding Charges Filed Post-Complaint," whereby Judge Laws was asked to "issue a declaratory ruling that if [*sic*] merit to the charge allegations in Case Nos. 08-CA-167313, 31-CA-167522, 10-CA-167330 and 10-CA-168085, there shall be no bar to the issuance of complaint on [these] cases." A copy of the General Counsel's Motion is attached hereto, and made a part hereof, as "Exhibit D." On February 24, 2016, an Opposition was submitted by the Hospitals, which put the General Counsel on notice that, as of the opening of the record before Judge Laws, the Hospitals would invoke Jefferson Chemical to bar any attempt on the General Counsel's part to litigate the allegations that were the subject of the Charges. A copy of the Opposition is attached hereto, and made a part hereof, as "Exhibit E." Nonetheless, the General Counsel forged ahead and

allowed the record to open before Judge Laws on February 29, 2016. Before the hearing adjourned for the day, Judge Laws denied the General Counsel's Motion. A copy of the relevant pages from the Transcript is attached hereto, and made a part hereof, as "Exhibit F."

4.) The Freestanding Complaints and the General Counsel's Motion to Consolidate

Following the opening of the record before Judge Laws on February 29, 2016, and specifically during the lunch break that day, the General Counsel advised the parties of a merit determination in the Charging Party's favor in Case No. 08-CA-167313. The very same day, the General Counsel issued a Complaint (hereafter, for ease of reference, the "Affinity Complaint") that adopted and set forth the allegations encompassed by the Charge. See Appeal, Ex. 2.² Additionally, before the hearing adjourned for the day, Counsel for the General Counsel orally moved for the Affinity Complaint to be consolidated with the Amended Complaint already before Judge Laws. See Appeal, Exhibit 3. The next day, Affinity orally opposed

² The General Counsel approved the Charging Party's request to withdraw the allegations that Affinity, Barstow and Watsonville were each an alleged single employer and / or joint employer with Quorum Health Corporation and / or QHCCS, LLC. The allegation that these Hospitals were each an alleged single employer and / or joint employer with CHS, Inc. and / or CHSPSC remained, however, and was adopted by the General Counsel's office in line with its overall theory of the case.

the General Counsel's request and Judge Laws advised that she would defer ruling on the Motion. Id.

On March 9, 2016, the General Counsel advised the parties of a merit determination in the Charging Party's favor in connection with Case Nos. 10-CA167330 and 10-CA-168085. The next day, the General Counsel issued a Consolidated Complaint (hereafter, for ease of reference, the "Bluefield Complaint") that adopted and set forth the allegations encompassed by the Charges. See Appeal, Ex. 4. On March 11, 2016, as part of the ongoing hearing in Cleveland³, Counsel for the General Counsel orally moved for the Bluefield Complaint to be consolidated with the Amended Complaint already before Judge Laws. See Appeal, Exhibit 3. On April 25, 2016, Bluefield and Greenbrier submitted their related Opposition. See Appeal, Ex. 5.

On March 15, 2016, the General Counsel advised the parties of a merit determination in the Charging Party's favor in Case No. 31-CA-167522. A copy of all of the merit determinations is attached hereto, and made a part hereof, as "Exhibit G." On April 8, 2016, the General Counsel issued a Complaint (hereafter, for ease of reference, the "Barstow

³ The hearing adjourned on March 11, 2016 and has not yet been rescheduled because of (another) Request for Special Permission to Appeal Order of Administrative Law Judge filed by the General Counsel. See Appeal, page 5, fn. 4.

Complaint”) that adopted and set forth the allegations encompassed by the Charge. See Appeal, Ex. 7. The very same day, the General Counsel filed a written motion with Judge Laws for the Barstow Complaint to be consolidated with the Amended Complaint already before her. See Appeal, Ex. 8. On April 25, 2016, Barstow filed a related Opposition. Id., Ex. 9.⁴

On May 2, 2016, Judge Laws issued an Order by which she denied the General Counsel’s Motions to Consolidate. On May 20, 2016, the General Counsel filed the Appeal now before the Board. For the reasons explained below, the Board should deny the Appeal and award summary judgment in favor of the Hospitals.

ARGUMENT

The General Counsel does not hold absolute power in terms of when and how an unfair labor practice case should be litigated before the agency. To the contrary, should the General Counsel’s office make the wrong choices, the General Counsel will be barred under the Board’s Jefferson Chemical doctrine from any litigation of the unfair labor practice case. The doctrine, which took root in the Board’s precedent more than half of a

⁴ In response to the above-referenced, freestanding pleadings, each Hospital filed a timely Answer in which they denied the commission of any unfair labor practices and averred an affirmative defense under Jefferson Chemical, 200 NLRB 992 (1972). A copy of the Hospitals’ Answers is attached hereto, and made a part hereof, as “Exhibit H.”

Amended Complaint],” not to mention “at the time of trial [here, the hearing before Judge Laws].” Highland Yarn Mills, 310 NLRB No. 109.

Furthermore, the General Counsel clearly does not dispute the fact that the allegations set forth by the Complaints are “of the same general nature as, or [are] related to,” the allegations set forth by the Amended Complaint. Highland Yarn Mills, 310 NLRB No. 109. In fact, the primary basis for the Motions to Consolidate filed with Judge Laws, and now the Appeal before the Board, is the General Counsel’s assertion that the allegations of the Complaints and the allegations of the Amended Complaint are “sufficiently intertwined.” See Appeal, page 10. The General Counsel points out that both the Complaints and the Amended Complaint include an allegation that a single employer and / or joint employer relationship exists between the Hospitals and CHS, Inc. and / or CHSPSC. See Appeal, pages 11-12. Beyond the common legal theory between the Complaints and the Amended Complaint, the General Counsel provides a relatively lengthy explanation as to how the allegations of the pleadings are “factually intertwined.” Id., pages 12-14. Put simply, and ironically enough, in making the case for consolidation of the Complaints and the Amended Complaint, the General Counsel’s office has only returned an indictment upon itself for a clear-cut violation of the agency’s Jefferson Chemical doctrine and shone

light on the litigation bar that prevents any further prosecution of the allegations set forth by the Complaints.

The applicability of Jefferson Chemical hardly comes as a surprise to the General Counsel. As noted above, on January 25, 2016, which was before the issuance of the Amended Complaint, Counsel for the General Counsel requested that the Hospitals sign Jefferson Chemical waivers. The Hospitals refused and put the General Counsel on notice that, to the extent the General Counsel found merit to any of the allegations set forth by the Charges, and attempted to prosecute the allegations as part of any new and separate case, the Hospitals would seek the dismissal of the allegations on the basis of Jefferson Chemical. See Exhibit C. In spite of the fact that the General Counsel's office saw, entirely on its own, the applicability of Jefferson Chemical they forged ahead anyhow and issued the Amended Complaint on February 5, 2016. At the same time, the General Counsel plainly remained uneasy about the applicability of Jefferson Chemical. Thus, before the record opened before Judge Laws, on February 16, 2016, the General Counsel put a rather unorthodox submission before Judge Laws, namely the "Motion for Declaratory Ruling Regarding Charges Filed Post-Complaint." See Exhibit D. In effect, through the Motion, the General Counsel sought a form of litigation insurance from the agency's Division of

Judges. In particular, the General Counsel hoped to stage the proceedings so that he could proceed, *posthaste*, with the litigation of the Amended Complaint, but at the same time, avoid the application of Jefferson Chemical in connection with the allegations pending outside of the Amended Complaint and later prosecute those allegations free and clear of any litigation bar. As part of their Opposition to the Motion, the Hospitals once again put the General Counsel on notice that, upon the opening of the record before Judge Laws on February 29, 2016, the agency's Jefferson Chemical doctrine would take hold of the proceedings and the Hospitals would seek dismissal of any later attempts by the General Counsel to prosecute any of the allegations set forth by the Charges. See Exhibit E, pages 17-18. Nonetheless, the General Counsel's office rolled the proverbial dice and now, following a series of adverse rulings issued by Judge Laws, pleas for the Board to rescue them from a self-engendered conundrum under Jefferson Chemical.

Notably, the General Counsel's office held a solution to the problems it now faces under Jefferson Chemical. Specifically, the General Counsel could have held off on the issuance of the Amended Complaint or pushed back the start of the hearing (and therefore, the opening of the record) for the relatively short period of time that was necessary to conclude the

investigation of the Charges and return merit findings in the Charging Parties' favor.⁵ Indeed, the General Counsel took that very approach once before, as part of Case No. 08-CA-166039, which delayed the start of the hearing for a short period of time. Had the General Counsel's office pursued the same approach in connection with the Charges, instead of arbitrarily changing course in violation of the agency's Jefferson Chemical doctrine, it would have issued a different and more efficient Amended Complaint, one that encompassed all of the violations that allegedly took place at the Hospitals during calendar year 2015. In the place of what could have been and should have been a reasonable and fair prosecution of the alleged violations, the General Counsel has created a Balkanized litigation, which has required the Hospitals to go through the entirely inefficient and disorderly process of responding to and defending the General Counsel's pleadings as they were intermittently rolled out over the course of roughly a six-week period.

The General Counsel is not alone in terms of responsibility for the current state of affairs. Given the belated timing of the Charges, and regardless of whether the allegations are barred under Section 10(b) of the

⁵ As noted above, by March 15, 2016, which was only a few days following the adjournment of the hearing taking place in Cleveland, the General Counsel's office reached merit findings in all of the cases that it now seeks to litigate *via* the Complaints. See Exhibit G.

Act, the Charging Parties have also engaged in blameworthy conduct that must be considered as part of the Board's analysis of the Hospitals' arguments. See Jefferson Chemical, 200 NLRB 995, fn. 3 (noting the fault of the charging party as relevant to the litigation bar analysis). As noted above, the Barstow Complaint focuses upon a change to a disciplinary policy that allegedly took place in July of 2015. See Appeal, Ex. 7. The Charge was filed on January 8, 2016. See Exhibit B. The Bluefield Complaint targets bad faith bargaining that allegedly began in late February / early March of 2015 and allegedly continued through November of 2015. See Appeal, Ex. 4. The Charges were filed on January 11 and 20, 2016. See Exhibit B. The Affinity Complaint arises from violations of Section 8(a)(5) of the Act that allegedly took place in September and November of 2015. See Appeal, Ex. 2. The Charge was filed on January 11, 2016. See Exhibit B. In every instance, therefore, the Charging Parties awaited the issuance of the original Complaint in the proceedings now before Judge Laws, and even, the start of a New Year before they brought any of their protests to the General Counsel's office.

The agency's Jefferson Chemical doctrine has never required a respondent to show any prejudice and the Board has no reason to upset over fifty years of precedent and consider any change in policy now. As matters

happen, however, the General Counsel's actions have subjected the Hospitals to substantial and undue prejudice, which cannot be washed away from the proceedings. To begin with, during the lunch break on the opening day of the hearing before Judge Laws, the General Counsel ambushed Affinity, Barstow and Watsonville with notice of the merit finding in the Charging Parties' favor in Case No. 08-CA-166039, and the very same day, issued the Affinity Complaint. See Exhibit G; Appeal, Ex. 2. Worse yet, as part of their Motion to Consolidate the Affinity Complaint with the Amended Complaint, the General Counsel's office voiced an intention, should the Motion be granted, to prosecute the case instantly as part of the hearing that opened that day before Judge Laws.

Additionally, hearings are scheduled to begin on June 27, 2016, August 8, 2016, September 19, 2016 and November 14, 2016 in connection with the allegations related to Watsonville, Bluefield, Greenbrier and Barstow, respectively. Because of the General Counsel's choice to ignore Jefferson Chemical, the Hospitals have been placed in a legal limbo, whereby they have no knowledge as to whether, when their given hearing convenes, they will be defending only the allegations set forth by the Amended Complaint or also those set forth by the Complaints. The Board will, of course, answer these questions as part of the rulings on the Appeal

and the Cross-Motion now before the Board. However, the fact that the Hospitals will some day learn what allegations they must defend, when and before whom does nothing to address, let alone remedy the current and ongoing lack of certainty. The imposition of such uncertainty places heavy, practical burdens on the Hospitals, not to mention on a number of witnesses who are no longer employed by the Hospitals, and yet, now must place their professional and personal schedules in a litigation holding pattern.

Lastly, the Hospitals should observe, respectfully, that the Board's authority over the Appeal is limited. See e.g. Washington Manor Inc. d/b/a Washington Manor Nursing Center (North), 211 NLRB 324, fn. 1 (1974). Under the agency's precedent, the Board's review is not *de novo*, but rather, one that considers only whether Judge Laws abused her discretion. The Hospitals believe that Judge Laws enjoyed the discretion to maintain the lines between the Amended Complaint and the Complaints. Consequently, because of the General Counsel's conscious refusal to comply with Jefferson Chemical, the Hospitals would be forced to go through numerous unfair labor practice proceedings that will substantially increase the already-immense demand on their resources in light of the size and complexity of the Amended Complaint.

In summary, the Appeal represents an attempt by the General Counsel's office to fault Judge Laws for not allowing them to put back together cases that they previously broke apart. That is, the General Counsel issued the Amended Complaint, and at the very same time, allowed the allegations set forth by the Charges to trickle out and proceed down their own separate paths, which, as they foresaw would be the case, ultimately led to a face-off with Jefferson Chemical. The General Counsel has no grounds whatsoever to deny knowledge of the events he now seeks to funnel into the proceedings before Judge Laws, and has made a case of his own in terms of how the allegations of the Complaints are intertwined with the allegations of the Amended Complaint. The General Counsel may claim to be the "master of the complaint," but he may not lay claim as the master of the proceedings, particularly here, given the waste of resources and abuse of the agency's processes. The General Counsel's office has no basis to seek the Board's help in putting what has become, by virtue of its own prosecutorial folly, the litigation version of "Humpty Dumpty" back together.

CONCLUSION

For all the reasons set forth above, the Hospitals respectfully request that the Board deny the Appeal and award summary judgment in their favor in connection with the allegations set forth by the Complaints.

Dated:

Glastonbury, CT
June 16, 2016

Respectfully submitted,

/s/ _____

Bryan T. Carmody, Esq.
Carmody & Carmody, LLP
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NATIONAL NURSES ORGANIZING COMMITTEE (NNOC), AFL-CIO	
HOSPITAL OF BARSTOW, INC. D/B/A BARSTOW COMMUNITY HOSPITAL, COMMUNITY HEALTH SYSTEMS, INC., and / or COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers and CALIFORNIA NURSES ASSOCIATION / NATIONAL NURSES ORGANIZING COMMITTEE (CNA / NNOC)	31-CA-167522

CERTIFICATE OF SERVICE

The Undersigned, Bryan T. Carmody, being an Attorney duly admitted to the practice of law, does hereby certify, pursuant to 28 U.S.C. § 1746, that, on June 17, 2016, the document above was served upon the following *via* email:

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Dated: Glastonbury, CT
June 16, 2016

Respectfully submitted,

/s/ _____

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Medical Center, Hospital of Barstow, Inc.
d/b/a Barstow Community Hospital,
Bluefield Hospital Company, LLC d/b/a
Bluefield Regional Medical Center,
Greenbrier VMC, LLC d/b/a Greenbrier
Valley Medical Center, and Watsonville
Hospital Corporation d/b/a Watsonville
Community Hospital

EXHIBIT A

From: **Sukert, Aaron** Aaron.Sukert@nlrb.gov
Subject: RE: DHSC, LLC d/b/a Affinity Medical Center, 08-CA-117890, et al.
Date: December 24, 2015 at 1:35 PM



To: **Carissimi, Mark** Mark.Carissimi@nlrb.gov, **Leonard Sachs** lsachs@howardandhoward.com, **Tracy Litzinger** tlitzinger@howardandhoward.com, **Hudson, Robert D.** RHudson@fbtlaw.com, **Bryan Carmody** bryancarmody@bellsouth.net, **Carmen DiRienzo** carmen.dirienzo@hotmail.com, **Andrew Lammers** andrew.lammers316@gmail.com, **Don Carmody** doncarmody@bellsouth.net, **Steven Chesler** sches415@hotmail.com, **Brendan White** bwhite@nationalnursesunited.org, **Jane Lawhon (NNU)** jlawhon@nationalnursesunited.org, **Domingo, Antonia** adomingo@usw.org, **Pincus, Stephen M.** Stephen.Pincus@nlrb.gov, **Banks, Ashley L.** Ashley.Banks@nlrb.gov, **Mearns, Timothy** Timothy.Mearns@nlrb.gov, **Gonzalez, Carlos** Carlos.Gonzalez@nlrb.gov, **MacKay, Robert** Robert.MacKay@nlrb.gov, **Garber, Noah** Noah.Garber@nlrb.gov, **Goode, Daniel** Daniel.Goode@nlrb.gov, **Kathy Cloud** KCloud@rwjplc.com, **Jacobson** jjacobson@rwjplc.com, **Wouthier** wouthier@rwjplc.com, **Mgifford** mgifford@HowardandHoward.com, **Pmccarthy** pmccarthy@HowardandHoward.com, **Mwezner** mwezner@HowardandHoward.com

Dear Judge Carissimi and Parties:

General Counsel wanted to also add that Respondent CHSI, and other Respondent Hospitals (Barstow, Bluefield, Fallbrook, Greenbrier, Watsonville) likewise did not agree to entering into a Jefferson Chemical waiver.

Sincerely,
Aaron Sukert
Counsel for General Counsel

From: Sukert, Aaron

Sent: Thursday, December 24, 2015 1:29 PM

To: Carissimi, Mark <Mark.Carissimi@nlrb.gov>; 'Leonard Sachs' <lsachs@howardandhoward.com>; 'Tracy Litzinger' <tlitzinger@howardandhoward.com>; 'Hudson, Robert D.' <RHudson@fbtlaw.com>; 'Bryan Carmody' <bryancarmody@bellsouth.net>; 'Carmen DiRienzo' <carmen.dirienzo@hotmail.com>; 'Andrew Lammers' <andrew.lammers316@gmail.com>; 'Don Carmody' <doncarmody@bellsouth.net>; 'Steven Chesler' <sches415@hotmail.com>; 'Brendan White' <bwhite@nationalnursesunited.org>; 'Jane Lawhon (NNU)' <jlawhon@nationalnursesunited.org>; 'Domingo, Antonia' <adomingo@usw.org>; Pincus, Stephen M. <Stephen.Pincus@nlrb.gov>; Banks, Ashley L. <Ashley.Banks@nlrb.gov>; Mearns, Timothy <Timothy.Mearns@nlrb.gov>; Gonzalez, Carlos <Carlos.Gonzalez@nlrb.gov>; MacKay, Robert <Robert.MacKay@nlrb.gov>; Garber, Noah <Noah.Garber@nlrb.gov>; Goode, Daniel <Daniel.Goode@nlrb.gov>; 'Kathy Cloud' <KCloud@rwjplc.com>; 'Jacobson' <jjacobson@rwjplc.com>; 'Wouthier' <wouthier@rwjplc.com>; 'Mgifford' <mgifford@HowardandHoward.com>; 'Pmccarthy' <pmccarthy@HowardandHoward.com>; 'Mwezner' <mwezner@HowardandHoward.com>
Subject: DHSC, LLC d/b/a Affinity Medical Center, 08-CA-117890, et al.

Judge Carissimi and Parties:

In light of the newly filed charge in Case 08-CA- 166039 which contains allegations that arguably have Jefferson Chemical implications, and Respondent Affinity's refusal to enter into a waiver, the Regional Director of Region 8 will be issuing an order on Monday postponing the hearing to February 29, 2016.

Sincerely,

Aaron Sukert

Counsel for General Counsel

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8**

**DHSC, LLC, d/b/a AFFINITY MEDICAL CENTER,
COMMUNITY HEALTH SYSTEMS, INC., and/or
COMMUNITY HEALTH SYSTEMS PROFESSIONAL
SERVICES CORPORATION, LLC,
a single employer and/or joint employers, et al.**

and

Cases 08-CA-117890, et al.

**CALIFORNIA NURSES ASSOCIATION/NATIONAL
NURSES ORGANIZING COMMITTEE (CNA/NNOC)**

and

**UNITED STEEL, PAPER AND FORESTRY RUBBER,
MANUFACTURING, ENERGY ALLIED INDUSTRIAL
AND SERVICE WORKERS INTERNATIONAL
UNION, AFL-CIO-CLC**

**FALLBROOK HOSPITAL CORPORATION
d/b/a FALLBROOK HOSPITAL**

Case 21-CA-143512

and

SEIU, UNITED HEALTHCARE WORKERS -- WEST

ORDER RESCHEDULING HEARING

IT IS HEREBY ORDERED that the hearing in the above-entitled matters is rescheduled from the 11th day of January 2016 to the 29th day of February 2016 at 10:00 a.m. at 1240 East Ninth Street, AJC Federal Building, Room 1695, Cleveland, Ohio 44199. The hearing will continue on consecutive days until concluded.

Dated at Cleveland, Ohio this 28th day of December 2015.



ALLEN BINSTOCK
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 8
1240 EAST 9TH STREET, STE 1695
CLEVELAND, OHIO 44199-2086

EXHIBIT B

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C. 3512

DO NOT WRITE IN THIS SPACE

Case

Date Filed

31-CA-167522

1/8/16

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

Community Health Systems, Inc., et al. (Please see Attachment A)

b. Tel. No. (see Attachment A)

c. Cell No.

f. Fax No.

g. e-Mail

h. Number of workers employed
1000+

d. Address (Street, city, state, and ZIP code)

(see Attachment A)

e. Employer Representative

(see Attachment A)

i. Type of Establishment (factory, mine, wholesaler, etc.)

Acute Care Hospital

j. Identify principal product or service

Healthcare

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

(see Attachment A)

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
California Nurses Association/National Nurses Organizing Committee (CNA/NNOC)

4a. Address (Street and number, city, state, and ZIP code)

2000 Franklin Street
Oakland, CA 94612

4b. Tel. No. (510) 273-2200

4c. Cell No.

4d. Fax No. (510) 663-4822

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)
AFL-CIO

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By



(signature of representative or person making charge)

Brendan White, Legal Counsel

(Print/type name and title or office, if any)

Tel. No. (510) 273-2273

Office, if any, Cell No.
(510) 289-0964

Fax No. (510) 663-4822

e-Mail

bwhite@nationalnursesunited.or

2000 Franklin Street, Oakland, CA 94612

Address

01/08/2016

(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

**Attachment A - Charge Against Employer
January 8, 2016**

**By California Nurses Association/
National Nurses Organizing Committee (CNA/NNOC)**

1. SINGLE EMPLOYER AND/OR JOINT EMPLOYER AGAINST WHOM CHARGE IS BROUGHT:

- a. Community Health Systems, Inc., and affiliate Community Health Systems Professional Services Corp. (also known as CHSPSC, LLC)
 - b. Tel. No.: (615) 465-7000
 - c. Address: 4000 Meridian Boulevard, Franklin, TN 37067
 - d. Representative: Rachel A. Seifert
-
- a. CHS affiliate, Hospital of Barstow, d/b/a Barstow Community Hospital
 - b. Tel. No.: (760) 256-1761
 - c. Address: 820 E. Mountain View Street, Barstow, CA 92311
 - d. Representative: Sean Fowler, CEO

2. Basis of the Charge:

Within the past six months, the above-named Employer has failed and refused to bargain collectively and in good faith with the California Nurses Association/National Nurses Organizing Committee (CNA/NNOC), a labor organization selected by a majority of the employees of the Employer in an appropriate unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment, by, inter alia:

- Unilaterally changing its discipline policies with respect to overtime;
- Refusing to furnish necessary and relevant information by CNA/NNOC regarding the discretionary discipline of its employees; and
- Imposing discretionary discipline without providing notice to CNA/NNOC or an opportunity to bargain before imposition of the discipline.

By these and other acts, the above-named Employer, by its officers, agents and representatives, has interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act.

SECTION 10(J) INJUNCTIVE RELIEF REQUESTED

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C. 3512

DO NOT WRITE IN THIS SPACE

Case

Date Filed

08-CA-167313

1-11-16

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

Community Health Systems, Inc., et al. (Please see Attachment A)

b. Tel. No. (see Attachment A)

c. Cell No.

f. Fax No.

g. e-Mail

h. Number of workers employed
1000+

d. Address (Street, city, state, and ZIP code)

(see Attachment A)

e. Employer Representative

(see Attachment A)

i. Type of Establishment (factory, mine, wholesaler, etc.)

Acute Care Hospital

j. Identify principal product or service

Healthcare

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

(see Attachment A)

3. Full name of party filing charge (if labor organization, give full name, including local name and number) (see Attachment A)

4a. Address (Street and number, city, state, and ZIP code)

2000 Franklin Street
Oakland, CA 94612

4b. Tel. No. (510) 273-2200

4c. Cell No.

4d. Fax No. (510) 663-4822

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) AFL-CIO

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By



(signature of representative or person making charge)

Brendan White, Legal Counsel

(Print/type name and title or office, if any)

Tel. No. (510) 273-2273

Office, if any, Cell No.
(510) 289-0964

Fax No. (510) 663-4822

e-Mail

bwhite@nationalnursesunited.or

2000 Franklin Street, Oakland, CA 94612

Address

01/08/2016

(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Attachment A –Charge Against Employer
By California Nurses Association/National Nurses Organizing Committee (CNA/NNOC)
January 8, 2016

1. SINGLE EMPLOYER, ALTER EGOS, AND/OR JOINT EMPLOYER AGAINST WHOM CHARGE IS BROUGHT:

- a. Community Health Systems, Inc., and/or CHSPSC, LLC (prior to January 1, 2015 known as Community Health Systems Professional Services Corporation)
- b. Tel. No. (615) 465-7000
- c. Address: 4000 Meridian Boulevard, Franklin, TN 37067
- d. Representative: Rachel A. Seifert

- a. Quorum Health Corporation, and/or QHCCS, LLC
- b. Tel. No. (615) 465-7000
- c. Address: 4000 Meridian Boulevard, Franklin, TN 37067
- d. Representative: Tom Miller, CEO

- a. CHS/QHC affiliate, DHSC, LLC, d/b/a Affinity Medical Center
- b. Tel. No. (330) 832-8761
- c. Address: 875 Eighth Street N.E., Massillon, OH 44646
- d. Representative: Ron Bierman, CEO

- a. CHS/QHC affiliate, Hospital of Barstow, d/b/a Barstow Community Hospital
- b. Tel. No. (760) 256-1761
- c. Address: 820 E. Mountain View Street, Barstow, CA 92311
- d. Representative: Sean Fowler, CEO

- a. CHS/QHC affiliate, Watsonville Community Hospital
- b. Tel. No. (831) 724-4741
- c. Address: 75 Nielson St., Watsonville, CA 95076
- d. Representative: Audra Earle, CEO

2. Basis of the Charge:

Within the six months preceding the filing of the charge, the above-named Employer, by its officers, agents and representatives, has failed and refused to bargain collectively and in good faith with the Charging Party, a labor organization, selected by a majority of the employees of the Employer in an appropriate unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment by, inter alia:

- Failing or refusing to meet regarding a planned corporate spin-off of the above-named Charged Party hospital entities;
- Failing or refusing to furnish necessary and relevant information regarding the announced spin-off; and
- Unilaterally imposing changes to terms and conditions of employment by implementing a QHC Benefits Plus plan and other benefits.

By these and other acts, the above-named Employer, by its officers, agents, and representatives, has interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act.

3. Full Name of Party Filing Charge:

- (1) California Nurses Association/National Nurses Organizing Committee [bargaining representative at Barstow Community Hospital]
- (2) California Nurses Association [bargaining representative at Watsonville Community Hospital]
- (3) National Nurses Organizing Committee [bargaining representative at Affinity Medical Center]

SECTION 10(J) INJUNCTIVE RELIEF REQUESTED

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case 10-CA-167330 Date Filed 01/11/2016

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

Community Health Systems, Inc., et al. (Please see Attachment A)

b. Tel. No. (see Attachment A)

c. Cell No.

f. Fax No.

g. e-Mail

h. Number of workers employed
1000+

d. Address (Street, city, state, and ZIP code)

(see Attachment A)

e. Employer Representative

(see Attachment A)

i. Type of Establishment (factory, mine, wholesaler, etc.)
Acute Care Hospital

j. Identify principal product or service
Healthcare

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

(see Attachment A)

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
National Nurses Organizing Committee (NNOC)

4a. Address (Street and number, city, state, and ZIP code)

2000 Franklin Street
Oakland, CA 94612

4b. Tel. No. (510) 273-2200

4c. Cell No.

4d. Fax No. (510) 663-4822

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) AFL-CIO

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By



(Signature of representative or person making charge)

Brendan White, Legal Counsel

(Printtype name and title or office, if any)

Tel. No. (510) 273-2273

Office, if any, Cell No.
(510) 289-0964

Fax No. (510) 663-4822

e-Mail

bwhite@nationalnursesunited.or

Address 2000 Franklin Street, Oakland, CA 94612

01/08/2016
(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Attachment A - Charge Against Employer
January 8, 2016
By National Nurses Organizing Committee (NNOC)

1. SINGLE EMPLOYER AND/OR JOINT EMPLOYER AGAINST WHOM CHARGE IS BROUGHT:

- a. Community Health Systems, Inc., and affiliate Community Health Systems Professional Services Corp. (also known as CHSPSC, LLC)
- b. Tel. No. (615) 465-7000
- c. Address: 4000 Meridian Boulevard, Franklin, TN 37067
- d. Representative: Rachel A. Seifert

- a. CHS affiliate, Greenbrier VMC, LLC, d/b/a Greenbrier Valley Medical Center
- b. Tel. No. (304) 647-6003
- c. Address: 202 Maplewood Avenue, Ronceverte, WV 24970
- d. Representative: Robert M. Calhoun, CEO

- a. CHS affiliate, Bluefield Hospital Company, LLC, d/b/a Bluefield Regional Medical Center
- b. Tel. No: (304) 327-1100
- c. Address: 500 Cherry Street, Bluefield, WV 24701
- d. Representative: William Hawley, CEO

2. Basis of the Charge:

Within the six months preceding the filing of the charge, the above-named Employer, by its officers, agents and representatives, has violated the Section 7 rights of its employees by, inter alia, refusing to permit Registered Nurses to have Union representation during investigatory meetings they reasonably believed could result in discipline, unlawfully interrogating Registered Nurses about their protected concerted activities, and unlawfully threatening Registered Nurses for engaging in protected concerted activities.

Within the past six months, the Employer has failed and refused to bargain collectively and in good faith with the National Nurses Organizing Committee (NNOC), a labor organization selected by a majority of the employees of the Employer in an appropriate unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment, by, inter alia:

- Refusing to furnish necessary and relevant information by NNOC regarding the discretionary discipline of its employees;
- Imposing discretionary discipline without providing notice to NNOC or an opportunity to bargain before imposition of the discipline;
- Unilaterally imposing changes to terms and conditions of employment by unilaterally refusing to schedule investigatory meetings based on its demand that the Union indemnify it;
- Unlawfully conditioning its participation in the collective bargaining process on NNOC's agreement to indemnify the Employer; and
- Unlawfully engaging in surface bargaining, as evidenced by the above misconduct as well the Employer's insistence on proposals which are not mandatory subjects of bargaining and other predictably unacceptable bargaining proposals.

By these and other acts, the above-named Employer, by its officers, agents, and representatives, has interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act.

SECTION 10(J) INJUNCTIVE RELIEF REQUESTED

FIRST AMENDED CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case

10-CA-167330

Date Filed

1/20/16

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

Community Health Systems, Inc., et al. (Please see Attachment A)

b. Tel. No. (see Attachment A)

c. Cell No.

f. Fax No.

g. e-Mail

h. Number of workers employed
1000+

d. Address (Street, city, state, and ZIP code)

(see Attachment A)

e. Employer Representative

(see Attachment A)

i. Type of Establishment (factory, mine, wholesaler, etc.)
Acute Care Hospital

j. Identify principal product or service
Healthcare

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

(see Attachment A)

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
National Nurses Organizing Committee (NNOC)

4a. Address (Street and number, city, state, and ZIP code)

2000 Franklin Street
Oakland, CA 94612

4b. Tel. No. (510) 273-2200

4c. Cell No.

4d. Fax No. (510) 663-4822

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) AFL-CIO

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By



(signature of representative or person making charge)

Nicole Daro, Legal Counsel

(Print/type name and title or office, if any)

Tel. No. (510) 273-2294

Office, if any, Cell No.

Fax No. (510) 663-4822

e-Mail

ndaro@nationalnursesunited.or

Address 2000 Franklin Street, Oakland, CA 94612

01/20/2016
(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Attachment A – First Amended Charge Against Employer
Case 10-CA- 167330 - January 20, 2016
By National Nurses Organizing Committee (NNOC)

1. SINGLE EMPLOYER AND/OR JOINT EMPLOYER AGAINST WHOM CHARGE IS BROUGHT:

- a. Community Health Systems, Inc., and affiliate Community Health Systems Professional Services Corp. (also known as CHSPSC, LLC)
 - b. Tel. No.: (615) 465-7000
 - c. Address: 4000 Meridian Boulevard, Franklin, TN 37067
 - d. Representative: Rachel A. Seifert
-
- a. CHS affiliate, Greenbrier VMC, LLC, d/b/a Greenbrier Valley Medical Center
 - b. Tel. No.: (304) 647-6003
 - c. Address: 202 Maplewood Avenue, Ronceverte, WV 24970
 - d. Representative: Robert M. Calhoun, CEO

2. Basis of the Charge:

Within the six months preceding the filing of the charge, the above-named Employer, by its officers, agents and representatives, has violated the Section 7 rights of its employees by, inter alia, refusing to permit Registered Nurses to have Union representation during investigatory meetings they reasonably believed could result in discipline.

Within the past six months, the Employer has failed and refused to bargain collectively and in good faith with the National Nurses Organizing Committee (NNOC), a labor organization selected by a majority of the employees of the Employer in an appropriate unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment, by, inter alia:

- Refusing to furnish necessary and relevant information by NNOC regarding the discretionary discipline of its employees;
- Imposing discretionary discipline without providing notice to NNOC or an opportunity to bargain before imposition of the discipline;
- Unilaterally imposing changes to terms and conditions of employment by unilaterally refusing to schedule investigatory meetings based on its demand that the Union indemnify it;
- Unlawfully conditioning its participation in the collective bargaining process on NNOC's agreement to indemnify the Employer; and
- Unlawfully engaging in surface bargaining, as evidenced by the above misconduct as well the Employer's insistence on proposals which are not mandatory subjects of bargaining and other predictably unacceptable bargaining proposals.

By these and other acts, the above-named Employer, by its officers, agents, and representatives, has interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act.

SECTION 10(J) INJUNCTIVE RELIEF REQUESTED

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C. 3612

DO NOT WRITE IN THIS SPACE

Case 10-CA-168085 Date Filed 01/20/2016

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

Community Health Systems, Inc. et al. (Please see Attachment A)

b. Tel. No. (see Attachment A)

c. Cell No.

f. Fax No.

g. e-Mail

h. Number of workers employed
1000+

d. Address (Street, city, state, and ZIP code)

(see Attachment A)

e. Employer Representative

(see Attachment A)

i. Type of Establishment (factory, mine, wholesaler, etc.)

Acute Care Hospital

j. Identify principal product or service

Healthcare

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) (5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

(see Attachment A)

3. Full name of party filing charge (if labor organization, give full name, including local name and number)
National Nurses Organizing Committee (NNOC)

4a. Address (Street and number, city, state, and ZIP code)

2000 Franklin Street
Oakland, CA 94612

4b. Tel. No. (510) 273-2200

4c. Cell No.

4d. Fax No. (510) 663-4822

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)
AFL-CIO

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By



(signature of representative or person making charge)

Nicole Daro, Legal Counsel

(Print/type name and title or office, if any)

Tel. No. (510) 273-2294

Office, if any, Cell No.

Fax No. (510) 663-4822

e-Mail

ndaro@nationalnursesunited.or

2000 Franklin Street, Oakland, CA 94612

Address

01/20/2016
(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

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Attachment A - Charge Against Employer
January 20, 2016
By National Nurses Organizing Committee (NNOC)

1. SINGLE EMPLOYER AND/OR JOINT EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

- a. Community Health Systems, Inc., and affiliate Community Health Systems Professional Services Corp. (also known as CHSPSC, LLC)
- b. Tel. No. (615) 465-7000
- c. Address: 4000 Meridian Boulevard, Franklin, TN 37067
- d. Representative: Rachel A. Seifert

- a. CHS affiliate, Bluefield Hospital Company, LLC, d/b/a Bluefield Regional Medical Center
- b. Tel. No: (304) 327-1100
- c. Address: 500 Cherry Street, Bluefield, WV 24701
- d. Representative: William Hawley, CEO

2. Basis of the Charge:

Within the past six months, the Employer has failed and refused to bargain collectively and in good faith with the National Nurses Organizing Committee (NNOC), a labor organization selected by a majority of the employees of the Employer in an appropriate unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment, by, inter alia, unlawfully engaging in surface bargaining

By these and other acts, the above-named Employer, by its officers, agents, and representatives, has interfered with, restrained, and coerced its employees in the exercise of their rights guaranteed in Section 7 of the Act.

SECTION 10(J) INJUNCTIVE RELIEF REQUESTED

EXHIBIT C

From: **Pincus, Stephen M.** Stephen.Pincus@nrlb.gov
Subject: RE: CHS -- new Jefferson Chemical Waiver
Date: January 27, 2016 at 9:21 AM
To: **Bryan Carmody** bryancarmody@bellsouth.net
Cc: **Don Carmody** doncarmody@bellsouth.net, **Carmen DiRienzo** carmen.dirienzo@hotmail.com, **Andrew Lammers** andrew.lammers316@gmail.com, **Sukert, Aaron** Aaron.Sukert@nrlb.gov, **Choudhury, Rudra** Rudra.Choudhury@nrlb.gov, **Goode, Daniel** Daniel.Goode@nrlb.gov, **Mearns, Timothy** Timothy.Mearns@nrlb.gov, **Banks, Ashley L.** Ashley.Banks@nrlb.gov

Bryan --

Thank you for getting back to me.

Stephen

From: Bryan Carmody [<mailto:bryancarmody@bellsouth.net>]
Sent: Wednesday, January 27, 2016 9:10 AM
To: Pincus, Stephen M. <Stephen.Pincus@nrlb.gov>
Cc: Don Carmody <doncarmody@bellsouth.net>; Carmen DiRienzo <carmen.dirienzo@hotmail.com>; Andrew Lammers <andrew.lammers316@gmail.com>
Subject: Fwd: CHS -- new Jefferson Chemical Waiver

Stephen,

As I trust your office can appreciate, the current litigation imposes enormous burdens on my clients and interferes with their ability to pursue their vital mission of delivering safe, quality patient care in the communities to which they are dedicated. Given the interests of my clients to go through litigation as efficiently as possible, and for other reasons as well, they will not agree to the proposed stipulation and waiver. Additionally, please be advised that, to the extent your office finds any merit to any of the allegations set forth by any of the new charges and later seeks to prosecute those allegations as part of a new and separate case, my clients will invoke Jefferson Chemical and seek dismissal of the complaint.

I should also note that our position would be the same in connection with another charge recently filed by the CNA, namely Case No. 10-CA-168085, which is not referenced by the document you forwarded below.

Thank you,

Bryan

Begin forwarded message:

From: "Pincus, Stephen M." <Stephen.Pincus@nrlb.gov>
Subject: CHS -- new Jefferson Chemical Waiver
Date: January 25, 2016 at 5:57:42 AM EST
To: Bryan Carmody <bryancarmody@bellsouth.net>, "Hudson, Robert D." <rhudson@fbtlaw.com>, "CHSI-NLRB-hh@HowardandHoward.com" <CHSI-NLRB-hh@HowardandHoward.com>
Cc: "Sukert, Aaron" <Aaron.Sukert@nrlb.gov>, "Choudhury, Rudra"

<Rudra.Choudhury@nlrb.gov>

Counsel –

We are sending you a Jefferson Chemical waiver regarding the newly-filed charges for your consideration. Please let us know by January 27 whether your clients will consent to the waiver.

Thank you.

Stephen

Stephen M. Pincus
Attorney
National Labor Relations Board, Region 8
Anthony J. Celebrezze Federal Building
1240 E. Ninth Street, Room 1695
Cleveland, OH 44199-2086

Direct Dial: (216) 522-8180
Facsimile: (216) 522-2418

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES**

**DHSC, LLC, d/b/a AFFINITY MEDICAL CENTER,
COMMUNITY HEALTH SYSTEMS, INC., and/or
COMMUNITY HEALTH SYSTEMS PROFESSIONAL
SERVICES CORPORATION, LLC,
a single employer and/or joint employers, et al.**

and

Cases

**08-CA-117890
et al.**

**CALIFORNIA NURSES ASSOCIATION/NATIONAL
NURSES ORGANIZING COMMITTEE (CNA/NNOC)**

and

**UNITED STEEL, PAPER AND FORESTRY
RUBBER, MANUFACTURING, ENERGY
ALLIED INDUSTRIAL AND SERVICE
WORKERS INTERNATIONAL UNION, AFL-CIO-CLC**

STIPULATION AND WAIVER

It having been concluded by the General Counsel to issue a Consolidated Complaint on October 19, 2015 in DHSC, LLC, d/b/a Affinity Medical Center, Community Health Systems, Inc. and/or Community Health Systems Professional Services Corporation, LLC, Cases 08-CA-117890, et. al. alleging that Respondents DHSC, LLC, d/b/a Affinity Medical Center ("Affinity"), Community Health Systems, Inc. ("CHSI"), Community Health Systems Professional Services Corporation, LLC ("CHSPSC"), Hospital of Barstow, Inc., d/b/a Barstow Community Hospital ("Barstow"), Bluefield Hospital Company, LLC d/b/a Bluefield Regional Medical Center ("Bluefield"), Fallbrook Hospital Corporation, d/b/a Fallbrook Hospital, Greenbrier, VMC, LLC d/b/a Greenbrier Valley Medical Center ("Greenbrier"), Jackson Hospital Corporation d/b/a Kentucky River Medical Center and Watsonville Hospital Corporation d/b/a Watsonville Community Hospital ("Watsonville") have violated the Act by engaging in various unfair labor practices, Respondents Affinity, Barstow, Bluefield, Greenbrier, Watsonville, CHSI and CHSPSC (collectively, "Respondents") hereby stipulate and agree that:

1. The General Counsel can proceed to hearing and decision by both an Administrative Law Judge and the Board in the instant matter without litigating any matter covering the allegations contained in:

Case No. 08-CA-167313, which alleges that Respondents CHSI, CHSPSC, Affinity, Barstow, Watsonville, Quorum Health Corporation and QHCCS, LLC have violated the Act by:

- failing and refusing to bargain in good faith with the California Nurses Association/National Nurses Organizing Committee (Union) over the proposed corporate spin-off of Affinity, Barstow and Watsonville to Quorum Health Corporation;
- failing and refusing to furnish necessary and relevant information regarding the spin-off; and
- unilaterally imposing changes to terms and conditions of employment by implementing a QHC Benefits Plus plan and other benefits.

Case No. 10-CA-167330, which alleges that Respondents CHSI, CHSPSC, Bluefield and Greenbrier have violated the Act by

- refusing to permit bargaining unit employees from having Union representation during investigatory meetings they reasonably believed could result in discipline;
- unlawfully interrogating bargaining unit members about their protected concerted activities;
- unlawfully threatening bargaining unit members for engaging in protected concerted activities; and
- failing and refusing to bargain in good faith with the Union by, among other things, its: (1) refusing to furnish necessary information by the Union regarding the discretionary discipline of its employees; (2) imposing discretionary discipline without providing a notice to the Union or an opportunity to bargain before imposition of the discipline; (3) unilaterally imposing changes to terms and conditions of employment by unilaterally refusing to schedule investigatory meetings based on its demand that the Union indemnify it; (4) unilaterally conditioning its participation in the collective bargaining process on the Union's agreement to indemnify the Employer; and (5) unilaterally engaging in surface bargaining.

Case No. 31-CA-167522, which alleges that Respondents CHSI, CHSPSC and Barstow have violated the Act by their failure and refusal to bargain in good faith with Union by, among other things, its: (1) unilaterally changing its discipline policies with respect to overtime; (2) refusing to furnish necessary information by the Union regarding the discretionary discipline of its employees; and (3) imposing discretionary discipline without providing a notice to without providing to the Union or an opportunity to bargain before imposition of the discipline.

2. Not delaying the litigation of the Consolidated Complaint in Cases 08-CA-117890, et. al. to await the completion of the investigation and the merit allegations described above in Paragraph 1, which are contained in Case 08-CA-167313, 10-CA-167330 and 31-CA-167522, is not a waste of resources or an abuse of process; but rather is a conservation of resources of both the NLRB and the Respondents and best effectuates and serves the purposes and policies of the Act to proceed in this manner.

3. Respondents are in no way prejudiced, unduly burdened, or harassed by this procedure.

4. The General Counsel is not precluded from subsequently issuing complaint in this matter covering the matters identified in Paragraph 1 that are currently under investigation even though those allegations are not encompassed in the Consolidated Complaint which issued on October 19, 2015.

In stipulating and agreeing to the above, the Respondents expressly waive any objection to the above procedure and any defenses that they would have under Peyton Packing Company, Inc., 129 NLRB 1358 (1961), Jefferson Chemical Company, Inc., 200 NLRB 992 and related cases.

Bryan Carmody, Esq.
Attorney for DHSC, LLC d/b/a Affinity Medical
Center, Watsonville Hospital Corporation d/b/a
Watsonville Community Hospital, Hospital of
Barstow, Inc., d/b/a Barstow Community Hospital;
Bluefield Hospital Company, LLC d/b/a Bluefield
Regional Medical Center, Greenbrier, VMC, LLC
d/b/a Greenbrier Valley Medical Center

Date: _____

Tracy Litzinger, Esq.
Attorney for Community Health Systems, Inc.

Date: _____

Robert D. Hudson, Esq.
Attorney for Community Health Systems
Professional Services Corporation

Date: _____

From: **Pincus, Stephen M.** Stephen.Pincus@nlrb.gov

Subject: RE: CHS -- new Jefferson Chemical Waiver

Date: January 29, 2016 at 2:57 PM

To: **Bryan Carmody** bryancarmody@bellsouth.net, **Hudson, Robert D.** rhudson@fbtlaw.com, CHSI-NLRB-hh@HowardandHoward.com

Cc: **Sukert, Aaron** Aaron.Sukert@nlrb.gov, **Choudhury, Rudra** Rudra.Choudhury@nlrb.gov



Counsel –

On January 25, 2016, I sent you a Jefferson Chemical waiver for newly-filed charges Case 08-CA-167313, 10-CA-167330 and 31-CA-167522 asking that you inform me by January 27 whether your clients would agree to sign the waiver. Bryan sent me an email on January 27 indicating that his clients would not consent to the waiver. I will assume that CHSI and CHSPSC also does not consent unless I hear back from you.

Please find attached another Jefferson Chemical waiver regarding another charge 10-CA-168085. Bryan indicated in his January 27 email that his client would also decline to sign the waiver for this charge as well. If any of your clients are willing to sign the waiver, please let me know by COB on Tuesday, February 2. If I don't hear from you, I will assume that your clients decline to sign the waiver.

Thank you.

Stephen

From: Pincus, Stephen M.

Sent: Monday, January 25, 2016 5:59 AM

To: 'Bryan Carmody' <bryancarmody@bellsouth.net>; Hudson, Robert D. <rhudson@fbtlaw.com>; 'CHSI-NLRB-hh@HowardandHoward.com' <CHSI-NLRB-hh@HowardandHoward.com>

Cc: Sukert, Aaron <Aaron.Sukert@nlrb.gov>; Choudhury, Rudra <Rudra.Choudhury@nlrb.gov>

Subject: CHS -- new Jefferson Chemical Waiver

Counsel –

We are sending you a Jefferson Chemical waiver regarding the newly-filed charges for your consideration. Please let us know by January 27 whether your clients will consent to the waiver.

Thank you.

Stephen

Stephen M. Pincus

Attorney

National Labor Relations Board, Region 8

Anthony J. Celebrezze Federal Building

1240 E. Ninth Street, Room 1695

Cleveland, OH 44199-2086

Direct Dial: (216) 522-8180

Facsimile: (216) 522-2418



Jefferson Chemical
Waiver (Bluefield).pdf

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES**

**DHSC, LLC, d/b/a AFFINITY MEDICAL CENTER,
COMMUNITY HEALTH SYSTEMS, INC., and/or
COMMUNITY HEALTH SYSTEMS PROFESSIONAL
SERVICES CORPORATION, LLC,
a single employer and/or joint employers, et al.**

and

Cases

**08-CA-117890
et al.**

**CALIFORNIA NURSES ASSOCIATION/NATIONAL
NURSES ORGANIZING COMMITTEE (CNA/NNOC)**

and

**UNITED STEEL, PAPER AND FORESTRY
RUBBER, MANUFACTURING, ENERGY
ALLIED INDUSTRIAL AND SERVICE
WORKERS INTERNATIONAL UNION, AFL-CIO-CLC**

STIPULATION AND WAIVER

It having been concluded by the General Counsel to issue a Consolidated Complaint on October 19, 2015 in DHSC, LLC, d/b/a Affinity Medical Center, Community Health Systems, Inc. and/or Community Health Systems Professional Services Corporation, LLC, Cases 08-CA-117890, et. al. alleging that Respondents DHSC, LLC, d/b/a Affinity Medical Center ("Affinity"), Community Health Systems, Inc. ("CHSI"), Community Health Systems Professional Services Corporation, LLC ("CHSPSC"), Hospital of Barstow, Inc., d/b/a Barstow Community Hospital ("Barstow"), Bluefield Hospital Company, LLC d/b/a Bluefield Regional Medical Center ("Bluefield"), Fallbrook Hospital Corporation, d/b/a Fallbrook Hospital, Greenbrier, VMC, LLC d/b/a Greenbrier Valley Medical Center ("Greenbrier"), Jackson Hospital Corporation d/b/a Kentucky River Medical Center and Watsonville Hospital Corporation d/b/a Watsonville Community Hospital ("Watsonville") have violated the Act by engaging in various unfair labor practices, Respondents Affinity, Barstow, Bluefield, Greenbrier, Watsonville, CHSI and CHSPSC (collectively, "Respondents") hereby stipulate and agree that:

1. The General Counsel can proceed to hearing and decision by both an Administrative Law Judge and the Board in the instant matter without litigating any matter covering the allegations contained in:

Case No. 10-CA-168085, which alleges that Respondents CHSI, CHSPSC and Bluefield by

- refusing to permit bargaining unit employees from having Union representation during investigatory meetings they reasonably believed could result in discipline;
- unlawfully interrogating bargaining unit members about their protected concerted activities;
- unlawfully threatening bargaining unit members for engaging in protected concerted activities; and
- failing and refusing to bargain in good faith with the Union by, among other things, its: (1) refusing to furnish necessary information by the Union regarding the discretionary discipline of its employees; (2) imposing discretionary discipline without providing a notice to the Union or an opportunity to bargain before imposition of the discipline; (3) unilaterally imposing changes to terms and conditions of employment by unilaterally refusing to schedule investigatory meetings based on its demand that the Union indemnify it; (4) unilaterally conditioning its participation in the collective bargaining process on the Union's agreement to indemnify the Employer; and (5) unilaterally engaging in surface bargaining.

2. Not delaying the litigation of the Consolidated Complaint in Cases 08-CA-117890, et. al. to await the completion of the investigation and the merit allegations described above in Paragraph 1, which are contained in 10-CA-168085, is not a waste of resources or an abuse of process; but rather is a conservation of resources of both the NLRB and the Respondents and best effectuates and serves the purposes and policies of the Act to proceed in this manner.

3. Respondents are in no way prejudiced, unduly burdened, or harassed by this procedure.

4. The General Counsel is not precluded from subsequently issuing complaint in this matter covering the matters identified in Paragraph 1 that are currently under investigation even though those allegations are not encompassed in the Consolidated Complaint which issued on October 19, 2015.

In stipulating and agreeing to the above, the Respondents expressly waive any objection to the above procedure and any defenses that they would have under Peyton Packing Company, Inc., 129 NLRB 1358 (1961), Jefferson Chemical Company, Inc., 200 NLRB 992 and related cases.

Bryan Carmody, Esq.
Attorney for Bluefield Hospital Company, LLC
d/b/a Bluefield Regional Medical Center,

Date: _____

Tracy Litzinger, Esq.
Attorney for Community Health Systems, Inc.

Date: _____

Robert D. Hudson, Esq.
Attorney for Community Health Systems
Professional Services Corporation

Date: _____

EXHIBIT D

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8**

**DHSC, LLC, d/b/a AFFINITY MEDICAL CENTER,
COMMUNITY HEALTH SYSTEMS, INC., and/or
COMMUNITY HEALTH SYSTEMS PROFESSIONAL
SERVICES CORPORATION, LLC,
a single employer and/or joint employers, et. al.**

and

Cases 08-CA-117890, et. al.

**CALIFORNIA NURSES ASSOCIATION/NATIONAL
NURSES ORGANIZING COMMITTEE (CNA/NNOC)**

and

**UNITED STEEL, PAPER AND FORESTRY RUBBER,
MANUFACTURING, ENERGY ALLIED INDUSTRIAL
AND SERVICE WORKERS INTERNATIONAL
UNION, AFL-CIO-CLC¹**

**GENERAL COUNSEL'S MOTION FOR DECLARATORY RULING REGARDING
CHARGES FILED POST-COMPLAINT**

Pursuant to Section 102.24(a) and 102.35(a) of the Board's Rules and Regulations, Counsel for the General Counsel ("General Counsel"), respectfully requests the Honorable Administrative Law Judge Eleanor Laws to issue a declaratory ruling that if merit to the charge allegations in Cases 08-CA-167313, 31-CA-167522, 10-CA-167330 and 10-CA-168085 (the "pending charges"), there shall be no bar to the issuance of complaint on these cases.

¹ The case caption includes the parties in Case 21-CA-143512 for Fallbrook Hospital, including Charging Party, SEIU, United Healthcare Workers-West.

MEMORANDUM IN SUPPORT

A. RELEVANT PROCEDURAL BACKGROUND²

On October 19, 2015, the Regional Director for Region 8 issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing (Consolidated Complaint) with hearing originally scheduled to commence on December 15, 2015 before Administrative Law Judge Mark Carissimi. On January 8, 2016, this matter was re-assigned to Administrative Law Judge Laws.

Following the issuance of the Consolidated Complaint, Charging Party National Nurses Organizing Committee/CNA (Union) filed five unfair labor practice charges against a number of the Respondents in Cases 08-CA-166039, 08-CA-167313, 31-CA-167522, 10-CA-167330 and 10-CA-168085.³ In the interest of proceeding to hearing consistent with the Case Management Order issued by Administrative Law Judge Carissimi and considering the potential that the new charge allegations are factually intertwined with allegations contained in the Consolidated Complaint, the General Counsel solicited Respondents to enter into a Stipulation and Waiver to allow the General Counsel to proceed to hearing without litigating the allegations contained in pending charges and to waive objections and defenses Respondents might have under *Peyton Packing Co.*, 129 NLRB 1358 (1961) and *Jefferson Chemical Co., Inc.*, 200 NLRB 992 (1972).⁴ Respondents refused to execute the waiver, and notably emphasized that in the event the hearing proceeded as scheduled, and any of the allegations in the pending charges would be the subject of a complaint, Respondents would assert litigation bar. Accordingly, the Regional Director for

² This procedural summary does not contain an exhaustive list of all of the substantive and procedural motions in this case.

³ Copies of the charges are attached as Exhibit A.

⁴ Copies of the unexecuted *Jefferson Chemical Waivers* are attached as Exhibit B.

Region 8 issued an order on December 28, 2015 rescheduling the hearing from January 11, 2016 to February 29, 2016.

On January 28, 2016, Judge Laws issued a Revised Case Management Order with the hearing to commence on February 29, 2016 in Cleveland, Ohio.

B. DESCRIPTION OF THE PENDING CHARGE ALLEGATIONS & AMENDED CONSOLIDATED COMPLAINT

The Regional Director for Region 8 decided the allegations in Case 08-CA-166039, filed by the Union on December 14, 2015, and amended January 8, 2016. On February 5, 2016, the Regional Director for Region 8 issued an Order Further Consolidating Cases, Amended Consolidated Complaint and Notice of Hearing in this matter which, *inter alia*, incorporated the allegations found to have merit in 08-CA-166039 into the complaint. The pending cases, which are described in more detail below, are currently under investigation and will be decided in an expeditious manner, but not before the Affinity hearing opens on February 29, 2016.

(1) Case 31-CA-167522, filed by the Union on January 8, 2016, alleges that Respondents CHSI, CHSPSC, and Hospital of Barstow, Inc., d/b/a Barstow Community Hospital (Barstow) failed to bargain in good faith in violation of Section 8(a)(1) and (5) by:

- unilaterally changing its disciplinary policies with respect to overtime without providing the Union with notice or an opportunity to bargain;
- refusing to furnish information requested by the Union regarding discretionary discipline of its employees; and,
- unilaterally imposing discretionary discipline to employees without providing the Union with notice or an opportunity to bargain before the imposition of the discipline.

(2) Case 10-CA-167330, filed by the Union on January 11, 2016, and amended on January 20, 2016, alleges that Respondents CHSI, CHSPSC and Greenbrier, VMS, LLC d/b/a Greenbrier Valley Medical Center (Greenbrier) denied employees *Weingarten* rights in violation

of Section 8(a)(1) and are refusing to bargain in good faith in violation Section 8(a)(1) and (5) by:

- refusing to furnish information requested by the Union regarding discretionary discipline of its employees;
- unilaterally imposing discretionary discipline to employees without providing the Union with notice or an opportunity to bargain;
- unilaterally imposing changes to terms and conditions of employment by refusing to schedule investigatory meetings based on its demand that the Union indemnify it;
- conditioning its participation in the collective-bargaining process on the Union's agreement to indemnify the Employer; and
- threatening bargaining unit members for engaging in protected concerted activities; and
- engaging in surface bargaining, by engaged in the above misconduct, insistence on non-mandatory proposals as well as the insistence on predictably unacceptable bargaining proposals.

(3) Case 10-CA-168085, filed by the Union on January 20, 2016, alleges that Respondents CHSI, CHPSC and Bluefield Hospital Company, LLC d/b/a Bluefield Regional Medical Center (Bluefield) violated Section 8(a)(1) and (5) of the Act by engaging in surface bargaining.

(4) Case 08-CA-167313, filed by the Union on January 11, 2016, alleges that Respondents CHSI, CHSPSC, Affinity, Barstow, Respondent Watsonville Hospital Corporation d/b/a Watsonville Community Hospital as well as Quorum Health Corporation and QHCCS, LLC refused to bargain in good faith in violation of Section 8(a)(1) and (5) by:

- failing and refusing to meet with the Union regarding the proposed corporate spin-off of Affinity, Barstow and Watsonville to Quorum Health Corporation;
- refusing to furnish information requested by the Union regarding the announced spin-off; and
- unilaterally imposing changes to employees' terms and conditions of employment by implementing a QHC Benefits Plus plan and other benefits without providing the Union with notice or an opportunity to bargain.

C. ARGUMENT

To preclude any possible *Jefferson Chemical* issues, the General Counsel seeks a declaratory ruling that there will be no litigation bar with respect to any of the allegations in the pending charges in the event they are found to have merit.

Peyton Packing and *Jefferson Chemical Co.* developed the precedent that the Board disfavors piecemeal litigation and the General Counsel will not be permitted to relitigate the lawfulness of specific conduct in separate proceedings by asserting that the conduct violates different sections of the Act or to relitigate the same charge in different cases. The Board, however, has recognized that its rulings in *Peyton Packing* and *Jefferson Chemical* are not absolute and such a “blanket rule” requiring consolidation would “interfere with the General Counsel’s discretion and, in some cases, could unduly delay the disposition of pending cases.” *Maremont Corp. World Parts Division*, 249 NLRB 216, 217 (1980). *See also*, *U Haul Company of Nevada, Inc.*, 345 NLRB 1301 (2005). The Board has found that the General Counsel’s decision to consolidate cases is subject to review only for “arbitrary abuse of discretion.” *Service Employees Local 87 (Cresleigh Management, Inc.)* 324 NLRB 777 (1997) (citing *Teamsters (Overnight Transportation Co.)*, 130 NLRB 1020, 1022 (1961)).

In circumstances where new charge allegations are filed during the pendency of an unfair labor practice proceeding involving the same respondents, the Board has held that there is no bar to litigating such allegations either in separate proceedings or during the pendency of an ongoing and lengthy administrative proceeding. *See e.g.*, *Unbelievable, Inc.*, 324 NLRB 1225 (1997); *Maremont Corp. World Parts Division*, 249 NLRB 216, 216-217 (1980); *Harrison Steel Castings*, 255 NLRB 1426 (1981).

In the instant case, at the time the Consolidated Complaint issued, the General Counsel was not aware of the allegations contained in the pending charges, nor is there any basis to assert that the General Counsel should reasonably have discovered the pending charge allegations during earlier investigations. Further, Respondents have been given ample notice of the pending charges, and thus have no basis to argue that they will be prejudiced or unduly burdened by litigating these allegations either in a consolidated hearing with the present complaint or in separate proceedings.

Finally, the Board has explained that not allowing the General Counsel to litigate new and additional violations discovered in proximate time to a hearing on earlier alleged violations, would force the General Counsel to either litigate these matters at that hearing or be prevented from doing so upon the filing of a separate charge. *Maremont Corp., supra.* at 216. Such a result would enable Respondents to “freely violate the Act prior to such hearing” and allow Respondents to indefinitely delay the ultimate litigation of any charge by simply engaging in further unlawful conduct. *Id.; Harrison Steel Casting, supra.* at 187. *See also, Unbelievable, Inc., supra.* at 1225.

D. CONCLUSION

For the foregoing reasons, the General Counsel respectfully requests Judge Laws to issue a declaratory ruling that there shall be no bar to the issuance of complaint upon in Case Nos. 08-CA-167313, 31-CA-167522, 10-CA-167330 and 10-CA-168085 should the respective Regional Directors find merit to the charge allegations

DATED at Cleveland, Ohio this 16th day of February 2016

Respectfully submitted,

/s/ Aaron Sukert
AARON SUKERT

s/ Stephen M. Pincus
STEPHEN M. PINCUS

Counsel for the General Counsel
National Labor Relations Board – Region 8
1240 East 9th Street – Room 1695
Cleveland, OH 44199-2086
Stephen.Pincus@nlrb.gov
Aaron.Sukert@nlrb.gov
(216) 522-8180

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing, was filed electronically with the National Labor Relations Board, Division of Judges, and served by electronic mail, as designated below, on the 16th day of February, 2016 on the following parties:

CARMEN DIRIENZO, ESQ.
4 HONEY HOLLOW RD
KATONAH, NY 10536-3607
carmen.dirienzo@hotmail.com

BRYAN CARMODY, ESQ.
134 EVERGREEN LANE
GLASTONBURY, CT 06033
bryancarmody@bellsouth.net

DON T. CARMODY, ESQ.
P.O. BOX 3310
BRENTWOOD, TN 37024-3310
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BRENDAN P. WHITE, ESQ.
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BWhite@nationalnursesunited.org

M. JANE LAWHON, ESQ.
CALIFORNIA NURSES ASSOCIATION / NATIONAL NURSES UNITED
LEGAL DEPARTMENT
2000 FRANKLIN STREET STE 300
OAKLAND, CA 94612
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ANTONIA DOMINGO, ESQ.
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STEVEN B. CHESLER, ESQ.
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LOUISVILLE, KY 40204
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MR. JOHN R. JACOBSON, ESQ.
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1906 WEST END AVENUE
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DATED at Cleveland, Ohio this 16th day of February, 2016

s/ Stephen M. Pincus
STEPHEN M. PINCUS

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EXHIBIT E

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES**

DHSC, LLC d/b/a AFFINITY MEDICAL CENTER, COMMUNITY HEALTH SYSTEMS, INC., and / or COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers, <i>et al.</i> and CALIFORNIA NURSES ASSOCIATION / NATIONAL NURSES ORGANIZING COMMITTEE (CNA / NNOC) and UNITED STEEL, PAPER AND FORESTRY RUBBER, MANUFACTURING, ENERGY ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL UNION, AFL-CIO	08-CA-117890, <i>et al.</i>
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**RESPONDENT HOSPITALS' OPPOSITION TO GENERAL
COUNSEL'S MOTION FOR DECLARATORY RULING
REGARDING CHARGES FILED POST-COMPLAINT**

As Respondents in the above-captioned cases, DHSC, LLC d/b/a Affinity Medical Center (hereafter, "Affinity"), Hospital of Barstow, Inc. d/b/a Barstow Community Hospital (hereafter, "Barstow"), Bluefield Hospital Company, LLC d/b/a Bluefield Regional Medical Center (hereafter, "Bluefield"), and Greenbrier VMC, LLC d/b/a Greenbrier Valley Medical

Center (hereafter, “Greenbrier”)¹ hereby oppose, by and through the Undersigned Counsel, the General Counsel’s Motion for Declaratory Ruling Regarding Charges Filed Post-Complaint (hereafter, the “Motion”).

BACKGROUND

1.) The Complaint and The Amended Complaint

By now, Your Honor is assuredly well-versed with the pleadings. By way of a simple overview, on October 19, 2015, the General Counsel issued a Consolidated Complaint (hereafter, the “Complaint”) in which he alleged that the Hospitals, together with CHS, Inc. and / or CHSPSC, LLC as an alleged single and / or joint employer, violated the National Labor Relations Act, as amended (hereafter, the “Act”), in a variety of ways, but primarily through violations of Section 8(a)(5). The Hospitals filed timely Answers in which they denied that any unfair labor practices had taken place and additionally denied the existence of any single employer and / or joint employer relationship.

On February 5, 2016, the General Counsel issued an Amended Consolidated Complaint (hereafter, the “Amended Complaint”), whereby,

¹ Any given opposing party may hereafter be referred to individually as the “Hospital,” whereas the opposing parties may hereafter be referred to collectively as the “Hospitals.”

inter alia, the General Counsel added an allegation against Affinity based upon an Unfair Labor Practice Charge filed by the Union on December 15, 2015. (Case No. 08-CA-166039)² In particular, through the Amended Complaint, the General Counsel has now alleged that, during the period of time Affinity and the Union have negotiated over a collective bargaining agreement, Affinity has failed and refused to bargain in good faith based upon, *inter alia*, proposals that were predictably unacceptable to the Union and designed to deprive the Union of its representational role, an unwillingness to adjust differences, demands to bargain to impasse over non-mandatory subjects of bargaining and refusals to bargain over, and provided information related to, discretionary discipline. See Amended Complaint, ¶ 97. Affinity filed a timely Answer in which the Hospital denied these allegations.

2.) The Flurry of Recent Unfair Labor Practice Charges

In between the issuance of the Complaint on October 19, 2015 and the issuance of the Amended Complaint on February 5, 2016, the Union, operating under one pseudonym or another, filed a number of Unfair Labor Practice Charges beyond the above-referenced Charge that has already been

² As noted by the Motion, the new Charge prompted the General Counsel to cancel the hearing date scheduled for January 11, 2016.

funneled into the proceedings *via* Amended Complaint.³ Specifically, the Union filed one Charge against Affinity, Barstow and Watsonville, another Charge against Barstow, yet another Charge against Greenbrier, and finally, a Charge against Bluefield.⁴

A.) Affinity, Barstow and Watsonville (Case No. 08-CA-167313)

The Charge related to Affinity, Barstow and Watsonville, which was filed with Region 8 on January 8, 2016, alleges that these Hospitals violated Section 8(a)(5) of the Act by virtue of refusals to meet over a planned spinoff, refusals to provided related information, and implementation of new benefits.⁵ By a letter dated January 19, 2016, Region 8 provided the Charged Parties with information related to the allegations and requested their evidence. Affinity, Barstow and Watsonville submitted a collective response to Region 8 on February 3, 2016.

³ The Hospitals have not attached a copy of the Charges, insofar as they have already been presented to Your Honor as attachments to the Motion.

⁴ Not surprisingly, all of the new Charges regurgitate the Union's single employer / joint employer theory.

⁵ In the context of Case No. 08-CA-167313 only, aside from CHS, Inc. and CHSPSC, LLC, the Union's single employer / joint employer theory also encompasses yet another entity, namely Quorum Health Corporation.

B.) Barstow (Case No. 31-CA-167522)

The Charge related to Barstow, which was filed with Region 31 on January 8, 2016, alleges that the Hospital violated Section 8(a)(5) of the Act in the following ways:

- (1) Changes to the discipline policy related to overtime,
- (2) Failure or refusal to provide information related to the discretionary discipline of employees, and
- (3) Failure or refusal to bargain related to the discretionary discipline of employees.

By a letter dated February 19, 2016, Region 31 provided Barstow with information related to the allegations and requested the Hospital's evidence. The Hospital's response is due on March 2, 2016.

C.) Greenbrier (Case No. 10-CA-167330)

On January 8, 2016, the Union filed with Region 10 the Charge related to Greenbrier. The Charge was amended on January 20, 2016, and as amended, alleges that the Hospital violated Section 8(a)(1) of the Act by denying employees' Weingarten rights. The amended Charge also alleges the Hospital violated Section 8(a)(5) of the Act in the following ways:

- (1) Failure or refusal to provide information related to the discretionary discipline of employees,
- (2) Failure or refusal to bargain related to the discretionary discipline of employees,

- (3) Refusals to schedule investigatory interviews unless the Union agreed to indemnify the Hospital for related liabilities,
- (4) Refusal to participate in the collective bargaining process unless the Union agreed to indemnify the Hospital for related liabilities, and
- (5) Engaging in surface bargaining as demonstrated by the conduct referenced above, as well as the Hospital's insistence on proposals that are not mandatory subjects of bargaining and other predictably unacceptable bargaining proposals.

By a letter dated February 1, 2016, Region 10 provided Greenbrier with information related to the allegations and requested the Hospital's evidence. A copy of the letter is attached hereto, and made a part hereof, as "Exhibit A." In the letter, on the subject of the Union's surface bargaining allegation, the General Counsel referred to the Union's assertion that the Hospital made "predictably unacceptable bargaining proposals," which "would undermine the Union's status as a collective bargaining representative." The Hospital's response was submitted to Region 10 on February 9, 2016.

D.) Bluefield (Case No. 10-CA-168085)

The Charge related to Bluefield, which was filed with Region 10 on January 20, 2016, alleges that the Hospital violated Section 8(a)(5) of the Act by engaging in surface bargaining. By a letter dated February 1, 2016, Region 10 provided Bluefield with information related to the allegations and

requested the Hospital's evidence. A copy of the letter is attached hereto, and made a part hereof, as "Exhibit B." The General Counsel's letter explained that the Union alleges the Hospital engaged in surface bargaining based upon the allegation that the Hospital insisted on proposals that are not mandatory subjects of bargaining and other predictably unacceptable bargaining proposals. Specifically, the General Counsel's letter refers to the Union's allegation that the "Hospital demonstrated a lack of willingness to adjust differences with the Union" based upon, *inter alia*, "a set of proposals [that the Hospital] knew would not be acceptable to the Union and which contained provisions which undermined the Union's status as a collective bargaining representative." The Hospital's response was submitted to Region 10 on February 9, 2016.

3.) The Jefferson Chemical Waivers

On December 16, 2015, the General Counsel requested that Affinity, together with the other Charged Parties, sign a Jefferson Chemical waiver as to Case No. 08-CA-166039. The following day, Affinity informed the General Counsel that the Hospital would not sign the waiver and explained the reasons for the refusal. A copy of Affinity's response is attached hereto, and made a part hereof, as "Exhibit C." On January 25, 2016, the General Counsel requested that Affinity, Barstow and Greenbrier, together with the

other Charged Parties, sign a Jefferson Chemical waiver as to Case Nos. 08-CA-167313, 10-CA-167330 and 31-CA-167522. Two days later, these Hospitals informed the General Counsel that, for the same reasons previously stated by Affinity, they would not sign the waiver. Additionally, though not referenced by the General Counsel's proposed waiver, Bluefield informed the General Counsel of its refusal to sign a waiver in connection with Case No. 10-CA-168085. A copy of the response is attached hereto, and made a part hereof, as "Exhibit D."

ARGUMENT

As explained below, the allegations set forth by the new Charges are of the same general nature, and indeed for the most part, the very same allegations as those set forth by the Amended Complaint. Given the General Counsel's knowledge of the Union's new allegations, under the Board's Jefferson Chemical doctrine, the General Counsel may not proceed with the prosecution of the Amended Complaint, and at the same time, reserve a right to drop any of these new allegations into the proceedings on a subsequent timetable of his own choosing. The solution for the General Counsel's avowed quandary is not to solicit from Your Honor an evisceration of the agency's settled precedent and force the Hospitals to endure a repetition of the current legal proceedings, which already have imposed extraordinary

burdens on their operations. Instead, as the General Counsel's office has done once already, precisely because of the applicability of Jefferson Chemical incidentally, the Regional Director may cancel the hearing presently scheduled for February 29th so that they may complete their investigation of the Union's new allegations.

1.) The Commonality of the Allegations

As Your Honor has likely gleaned already, aside from the fact the allegations set forth by the new Charges are substantially the same between and among themselves, the allegations are substantially the same as the General Counsel's new theory that Affinity has failed and refused to bargain in good faith with the Union in the context of the parties' negotiations toward a collective bargaining agreement. Specifically, the Amended Complaint alleges that Affinity has made proposals that would be predictably unacceptable to the Union. See Amended Complaint, ¶ 97. The very same allegations are set forth by the Charges related to Greenbrier and Bluefield. See Exhibits A and B. The Amended Complaint alleges that Affinity made proposals that were designed to undermine the Union's representational role. Id. Here also, the very same allegations are set forth by the Charges related to Greenbrier and Bluefield. Id. The Amended Complaint refers generally to Affinity's "unwillingness to adjust

differences,” which also appears in the Charges against Greenbrier and Bluefield. Id. As evidence of Affinity’s alleged bad faith through the negotiations, the Amended Complaint also refers to the Hospital’s alleged demand to bargain to impasse on non-mandatory subjects of bargaining and the Hospital’s positions on the subject of indemnification. Id. Once again, the very same allegations are set forth by the Charges against Greenbrier and Bluefield. Id. Equally true, the Amended Complaint and the Charges against Greenbrier and Bluefield, as well as Barstow, allege the very same refusals to bargain in connection with discretionary disciplinary actions. Id. Put simply, the claim of bad faith bargaining against Affinity, as alleged *via* the Amended Complaint, and the new claims of bad faith bargaining raised by the Union, are simply different sides to the same pair of dice.

And yet, the kinship between and among the cases has even deeper roots in the litigation. The Complaint, which issued back on October 19, 2015, alleges that Barstow failed and refused to bargain in good faith with the Union during the course of the parties’ negotiations toward a collective bargaining agreement. See Complaint, ¶ 98. Like the General Counsel’s later challenge to Affinity’s negotiations with the Union, the General Counsel alleged Barstow engaged in bad faith bargaining based upon proposals that were predictably unacceptable to the Union and proposals that

were designed to deprive the Union of its representational role. Id. Additionally, and similarly, the General Counsel referred to Barstow's refusal to bargain, and provide information related to, discretionary discipline of employees. Id.

Also of note, the General Counsel's challenge to the negotiations at Barstow and Affinity, as well as the Union's tandem challenge to the negotiations at Greenbrier and Bluefield, cover overlapping periods of time⁶, and in any event, ride along the common theme of the given facility's supposed failure to bargain in good faith during the parties' efforts to reach a collective bargaining agreement in the wake of the Certifications of Representative issued in the Union's favor.⁷

2.) The Clear-Cut Application of Jefferson Chemical to the Pending Charges

For over a half a century, the Board has held the agency's General Counsel accountable for the efficient and fair prosecution of alleged unfair labor practices. See Peyton Packing Co., 129 NLRB 1358 (1961). In

⁶ The allegations against Barstow cover the period July 2013 to August 2015 (see Complaint, ¶ 98, Amended Complaint, ¶ 103), the allegations against Affinity cover the period February 2014 to November 2015 (see Amended Complaint, ¶ 97), and the allegations against Greenbrier and Bluefield cover essentially calendar year 2015 (see Exhibits A and B).

⁷ The allegations against Watsonville have also been lodged against the backdrop of negotiations between the Hospital and the Union, though they arise from an expired collective bargaining agreement, as opposed to the issuance of a certification of representative.

Jefferson Chemical Co., Inc., the Board held that the General Counsel is “dutybound to investigate all matters which are encompassed by the charge, and to proceed appropriately thereafter.” 200 NLRB 992, fn. 3 (1972). Thus, the Board imposed a bar on the General Counsel’s multiple litigation of issues that should have been presented in the context of one unfair labor practice proceeding. Id. The Board explained that the bar arose from the need to police against the waste of resources and the abuse of the agency’s processes. Id. In the case now before Your Honor, there is a very good reason why the General Counsel sought, on two occasions, for the Hospitals to execute a waiver of their objections under the Jefferson Chemical doctrine – to wit, the doctrine is patently applicable.

The Jefferson Chemical doctrine was concisely summarized by the Board in Highland Yarn Mills:

“[T]he General Counsel may not litigate an unfair labor practice allegation predicated on events which the General Counsel knew or should have known about when issuing an earlier complaint or at the time of trial in that earlier complaint, if that allegation is of the same general nature as, or is related to, an allegation in an earlier complaint.”

310 NLRB No. 109 (March 12, 1993) (emphasis added), vacated on other grounds, 315 NLRB No. 146 (December 27, 1994).

Needless to say, the General Counsel may not deny knowledge of the Union’s new allegations, given the fact that the allegations are currently the

subject of the General Counsel's investigation. Indeed, given the General Counsel's theory of some massive single employer and / or joint employer that controls the Hospitals' labor affairs, and the General Counsel's long-term knowledge of the pendency of negotiations between the Hospitals and the Union, the General Counsel should have undertaken an investigation of its own last summer.⁸ As a related matter, the Union is lacking any good explanation as to why they delayed their challenge to the negotiations taking place at Greenbrier and Bluefield. As signaled by the General Counsel's correspondence (see Exhibits A and B), the Union's challenge to the bargaining conduct of these Hospitals reaches all the way back to early January of last year, *i.e.*, the very starting point of the parties' respective negotiations. Likewise, the Union had notice of the spinoff related to Affinity, Barstow and Watsonville in August of last year and the parties' related disputes quickly took form. And yet, the Union awaited the issuance of the Complaint, and even, the start of a New Year, before they brought any of these protests to the General Counsel's office. See Jefferson Chemical, 200 NLRB 995, fn. 3 (noting the fault of the charging party as relevant to the litigation bar analysis).

⁸The General Counsel's office informed the Hospitals of its merit finding on the Union's single employer and / or joint employer theory on August 3, 2015. A copy of the related notice is attached hereto, and made a part hereof, as "Exhibit E."

Moreover, though the General Counsel manages only a meek reference to the “potential” that the Union’s new allegations are intertwined with the allegations set forth by the Amended Complaint (see Motion, page 2), the parallelism between the General Counsel’s current case and the new allegations that the Union has pressed against Bluefield and Greenbrier is irrefutable. Equally true, the allegations related to Affinity, Barstow and Watsonville (i.e., Case No. 08-CA-167313) abound with similarity to the General Counsel’s current bevy of allegations. The Union alleges that, in the context of ongoing contract negotiations, these Hospitals have made unilateral changes to represented employees’ terms and conditions of employment and refused to provide the Union with requested information, which are allegations that stream through the pages of the Amended Complaint. Even the allegation related to these Hospitals’ refusal to bargain over the spinoff has a counterpart in the Amended Complaint, insofar as the General Counsel has taken issue with another matter that affected the RNs’ employee status, namely, the close of the acute care facility previously operated by Fallbrook Hospital Corporation. Surely, all of these alleged events, which are staked to Section 8(a)(5) of the Act, are “of the same general nature” (see Highland Yarn Mills, supra) as the allegations presently set forth by the Amended Complaint. Moreover, should the General

Counsel find merit to any of the new allegations, undoubtedly, the General Counsel will seek to leverage the allegations as further grounds to justify the corporate-wide remedy referenced by the Amended Complaint, which plainly demonstrates a relationship between the Union's new allegations and the General Counsel's current allegations.

The case law referenced by the Motion lends no support for the General Counsel's plea for Your Honor's endorsement of a piecemeal approach to the litigation. See Motion, pages 5-6. In Unbelievable, Inc., the Board rejected a litigation bar as to an allegation that the employer unlawfully deprived the union of access to the employer's facility, which was a discreet act that occurred nearly two years after the issuance of the complaint in the previous case and nearly a year and a half after the commencement of the related hearing. 324 NLRB 1225, 1226 (1997). In Maremont Corp., the Board rejected the employer's assertion of Jefferson Chemical because the allegations covered by the previous case and the allegations covered by the later case were not "concurrent violations," and in any event, the General Counsel had made an attempt to litigate the later allegations in the previous case, but was turned away by the Judge. 249 NLRB 216, 217 (1980). In Harrison Steel Castings, the General Counsel had no knowledge of the allegation at the time the previous proceedings

were taking place and the allegations of the two proceedings were not intertwined. 255 NLRB 1426 (1981). In summary, none of the legal authority referenced by the Motion presents a factual pattern that bears any resemblance to the proceedings now before Your Honor.

Your Honor should also reject the General Counsel's offensive suggestion that, by simply engaging in a never-ending series of unfair labor practices, the Hospitals can avoid a hearing on the allegations from now through the end of time. To begin with, and worthy of special emphasis, the parade of horrors envisioned by the General Counsel, and likely shared by the Union as well, is one entirely of their own making. As noted above, the Union chose to delay the filing of the new Charges, and in spite of the fact that the General Counsel's office found merit to the single employer and / or joint employer theory back in August of last year (see Exhibit E), they were content to leave the allegations as they stood.⁹ Furthermore, the General Counsel's leadership chose to consolidate the cases now before Your Honor, and while they routinely highlight their discretion to make these choices, Your Honor should not let them shake free of the related consequences. In

⁹ On a related note, though the General Counsel's office claims that the Union's new charges "will be decided in an expeditious manner" (see Motion, page 3), the facts show the investigation moving along at a relatively sluggish pace. For example, whereas the Charge against Barstow was filed on January 8, 2016, Region 31 did not send out any letter seeking evidence for another six weeks.

particular, the General Counsel could have proceeded with the cases against Kentucky River Medical Center as well as Fallbrook Hospital, insofar as these Respondents are free and clear of any new unfair labor practice charge that has dropped into the proceedings on the basis of the Union's sudden revelation of claimed violations that supposedly took root over a year ago.

The General Counsel has also shown zero regard for the extreme burdens the litigation has imposed upon the Hospitals. Ironically enough, in the context of the parties' submissions on the original Case Management Order, the General Counsel was the party who argued that the litigation should travel through each hearing location only once and not take a second loop around for the sake of the presentation of the Hospitals' defense. And yet, now, the General Counsel's office seeks to preserve its rights to put the Hospitals through the entire litigation twice. The General Counsel may claim to be the "master of the complaint," but he may not lay claim as the master of the proceedings, particularly here, given the waste of resources and abuse of the agency's processes that would invariably result on account of his approach to the cases.

As noted before, there is a reason why the General Counsel reached out to the Hospitals with the Jefferson Chemical waivers. To the extent the General Counsel's office wishes to avoid the litigation bar, the solution is

not to request that Your Honor re-define the agency's settled precedent on the fly. Instead, the General Counsel's office may take the same step as they took before -- specifically, instruct the Regional Director to reschedule the hearing so that the pending investigations can be completed and the scope of the litigation confirmed or re-framed, as the case may be. In the absence of such a step, the moment the record opens on Cleveland on February 29, 2016, the Jefferson Chemical doctrine takes hold of the proceedings, and any later attempts by the General Counsel to prosecute any of the Union's new allegations will be met with the Hospital(s) prompt assertion of related defenses and necessary motion practice.

CONCLUSION

As stated by the Motion, the General Counsel seeks a declaratory ruling from Your Honor simply "[t]o preclude any possible *Jefferson Chemical* issues." See Motion, page 5. In reality, the General Counsel seeks to deprive the Hospitals of their rights under Jefferson Chemical by urging Your Honor to overrule the doctrine in circumstances where the General Counsel, acting through the Regional Director, already possesses the authority to provide the relief requested of Your Honor by simply rescheduling the hearing. Your Honor should deny the Motion.

Dated: Glastonbury, CT
February 24, 2016

Respectfully submitted,

/s/ _____

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UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

DHSC, LLC d/b/a AFFINITY MEDICAL CENTER, COMMUNITY HEALTH SYSTEMS, INC., and / or COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers, <i>et al.</i> and CALIFORNIA NURSES ASSOCIATION / NATIONAL NURSES ORGANIZING COMMITTEE (CNA / NNOC) and UNITED STEEL, PAPER AND FORESTRY RUBBER, MANUFACTURING, ENERGY ALLIED INDUSTRIAL AND SERVICE WORKERS INTERNATIONAL UNION, AFL-CIO	08-CA-117890, <i>et al.</i>
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CERTIFICATE OF SERVICE

The Undersigned, Bryan T. Carmody, being an Attorney duly
admitted to the practice of law, does hereby certify, pursuant to 28 U.S.C. §
1746, that, on February 24, 2016, the document above was served upon the
following *via* email:

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Dated: Glastonbury, CT
February 24, 2016

Respectfully submitted,

/s/ _____

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EXHIBIT F

1 parties my rulings on certain motions. Because
2 of the pending motion for summary judgment and
3 the expected ruling on that this afternoon, I
4 am holding off on ruling on any motions that
5 don't just deal with Affinity and the portion
6 of the trial that we're here for today. I will
7 wait until this afternoon or tomorrow morning
8 to decide those issues.

9 So what that leaves me with is,
10 there's a February 16th General Counsel motion
11 for a declaratory ruling. There's nothing for
12 me to rule on yet. And I stated off the record
13 and I'll state it on now, that I will rule on
14 any motions to amend if and when they are
15 presented to me in accordance with the Board's
16 case law on motions to amend. So I'm denying
17 that motion. I'll -- I'll consider any right
18 motions to amend when they become right.

19 With regard to the February 17th
20 Hospitals' motion in limine, with regard to the
21 argument that the Union and General Counsel are
22 estopped from raising a single/joint employer
23 issue at this juncture, I'm going to deny the
24 motion. Prosecutorial decisions by the
25 regional director and the General Counsel are

EXHIBIT G



From: **Pincus, Stephen M.** Stephen.Pincus@nlrb.gov
Subject: RE: CHS -- GC Motion for Declaratory Ruling Regarding Charges Filed Post-Complaint
Date: February 29, 2016 at 12:26 PM
To: **Carmen DiRienzo** carmen.dirienzo@hotmail.com, **Bryan Carmody** bryancarmody@bellsouth.net, **Don Carmody** doncarmody@bellsouth.net, **Andrew Lammers** andrew.lammers316@gmail.com, **Patrick McCarthy, Esq. R** pmccarthy@howardandhoward.com, **Hudson, Robert D.** rhudson@fbtlaw.com, **Brendan White** bwhite@nationalnursesunited.org, **Jane Lawhon** jlawhon@calnurses.org, **Domingo, Antonia** adomingo@usw.org, **Nicole Daro** NDaro@CalNurses.Org, **Steven Chesler, Esq. R** sches415@hotmail.com, **Katherine R. Cloud, Esq. R** kcloud@rwjplc.com, **Jacobson** jjacobson@rwjplc.com, **Wouthier** wouthier@rwjplc.com, **Jwhite** jwhite@unioncounsel.net, **Bharland** bharland@unioncounsel.net, **CHSI-NLRB-hh** @HowardandHoward.com
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Counsel and Judge Laws –

I am writing to inform you that the Regional Director has found merit to Case No. 08-CA-167313 against Respondents Affinity, Barstow, Watsonville, CHSI and CHSPSC regarding the failure/delay to provide information regarding the QHC spinoff and the unilateral changes to the employees' benefits, including QHC Benefits Plus, the 401(k) plan and the Long Term Care insurance.

Thank you.

Stephen Pincus

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From: **Pincus, Stephen M.** Stephen.Pincus@nrlb.gov
Subject: **Merit Determination - 10-CA-167330, 10-CA-168085**



Date: **March 9, 2016 at 4:13 PM**

To: **Carmen DiRienzo** carmen.dirienzo@hotmail.com, **Bryan Carmody** bryancarmody@bellsouth.net, **Don Carmody** doncarmody@bellsouth.net, **CHSI-NLRB-hh** CHSI-NLRB-hh@HowardandHoward.com, **Hudson, Robert D.** rhudson@fbtlaw.com
Cc: **Brendan White** bwhite@nationalnursesunited.org, **Jane Lawhon** jlawhon@calnurses.org, **Sukert, Aaron** Aaron.Sukert@nrlb.gov, **Mearns, Timothy** Timothy.Mearns@nrlb.gov, **Banks, Ashley L.** Ashley.Banks@nrlb.gov

Counsel –

I am informing you that a merit determination has been made by the Regional Director in Case Nos. 10-CA 167330 and 10-CA-168085 with regard to the allegations concerning Greenbrier's failure to bargain and provide information re: the termination of Julie Hoffman Jackson, Greenbrier's conditioning bargaining over Jackson's termination on the execution of an indemnification agreement and Greenbrier's and Bluefield's bargaining with no intention of reaching agreement.

Thank you.

Stephen Pincus

Stephen M. Pincus
Attorney
National Labor Relations Board, Region 8
Anthony J. Celebrezze Federal Building
1240 E. Ninth Street, Room 1695
Cleveland, OH 44199-2086

Direct Dial: (216) 522-8180
Facsimile: (216) 522-2418

From: **Laufer, Amanda W.** Amanda.Laufer@nlrb.gov
Subject: **Re: NLRB 31-CA-167522, Community Health Systems, Inc., et al.**
Date: **March 15, 2016 at 6:51 PM**
To: doncarmody@bellsouth.net, carmen.dirienzo@hotmail.com, bryancarmody@bellsouth.net, lsachs@howardandhoward.com, dltzinger@howardandhoward.com, rhudson@fbtlaw.com



Dear counsel,

I am writing regarding the above-captioned charge and to inform you that the Region has authorized complaint on the following allegations:

1. The Charged Parties constitute a single and/or joint employer;
2. Within the past six months, the Charged Parties violated Section 8(a)(5) and (1) of the Act by unilaterally changing its discipline policies with respect to overtime;
3. Within the past six months, the Charged Parties violated Section 8(a)(5) and (1) of the Act by imposing discretionary disciplines without providing notice to the Union or an opportunity to bargain before imposition of the disciplines; and
4. Within the past six months, the Charged Parties violated Section 8(a)(5) and (1) of the Act by refusing to furnish necessary and relevant information requested by the Union regarding the discretionary discipline of its employees.

I expect that the Charged Parties will not be willing to settle the instant matter because it would require the Charged Parties to also settle the single and joint employer allegations. However, please notify me by **5:00 p.m. (PST) tomorrow, Thursday, March 16, 2016** if my understanding is incorrect.

Thank you,

Amanda (Dixon) Laufer, Esq.
National Labor Relations Board, Region 31
11500 West Olympic Boulevard, Suite 600
Los Angeles, CA 90064
(310) 235-7317 Direct Dial
(310) 235-7420 Fax
amanda.laufer@nlrb.gov

NOTE:

The NLRB strongly encourages all parties to file documents electronically through our online E-File system: <https://apps.nlrb.gov/eservice/efileterm.aspx>

EXHIBIT H

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8**

DHSC, LLC d/b/a AFFINITY MEDICAL CENTER, HOSPITAL OF BARSTOW, INC. d/b/a BARSTOW COMMUNITY HOSPITAL, WATSONVILLE HOSPITAL CORPORATION d/b/a WATSONVILLE COMMUNITY HOSPITAL, COMMUNITY HEALTH SYSTEMS, INC. and / or COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers and NATIONAL NURSES ORGANIZING COMMITTEE (NNOC), CALIFORNIA NURSES ASSOCIATION / NATIONAL NURSES ORGANIZING COMMITTEE (CNA/NNOC) and CALIFORNIA NURSES ASSOCIATION (CNA), NATIONAL NURSES UNITED	08-CA-167313
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**RESPONDENT DHSC, LLC D/B/A AFFINITY MEDICAL CENTER'S
ANSWER TO COMPLAINT**

As a Respondent in the above-captioned cases, DHSC, LLC d/b/a Affinity Medical Center (hereafter, "Affinity" or the "Hospital"), hereby answers, by and through its Undersigned Counsel, the Complaint and Notice of Hearing (hereafter, the "Complaint") issued by Mr. Allen Binstock, the Regional Director for Region 8 of the National Labor Relations Board (hereafter, the "Board"), on February 29, 2016.

(1) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (1) of the Complaint.

2(A) Affinity admits the allegations set forth by Paragraph 2(A) of the Complaint.

2(B) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 2(B) of the Complaint.

2(C) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 2(C) of the Complaint.

2(D) Affinity denies each and every allegation set forth by Paragraph 2(D) of the Complaint which implicates Affinity, except admits, based upon information and belief, the source of such information and belief being common knowledge derived from the public domain, that CHSI, being a Delaware corporation with its principal office and place of business in Franklin, Tennessee, operates as a holding company. Affinity further denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 2(D) of the Complaint which do not implicate Affinity, excepts denies the specific allegation that CHSI is

engaged in the operation of Affinity, to the extent the allegations set forth by Paragraph 2(D) of the Complaint imply that CHSI is engaged in the operation of Affinity.

2(E) Affinity denies each and every allegation set forth by Paragraph 2(E) of the Complaint which implicates Affinity, except admits, based upon information and belief, the source of such information and belief being common knowledge derived from the public domain, that CHSPSC, with its principal office and place of business in Franklin, Tennessee, operates as a Limited Liability Corporation. Affinity further denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 2(E) of the Complaint which do not implicate Affinity, excepts denies the specific allegation that CHSPSC is engaged in the operation of Affinity, to the extent the allegations set forth by Paragraph 2(E) of the Complaint imply that CHSPSC is engaged in the operation of Affinity.

(3) Affinity denies each and every allegation set forth by Paragraph (3) of the Complaint.

(4) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (4) of the Complaint.

(5) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (5) of the Complaint.

(6) Affinity denies each and every allegation set forth by Paragraph (6) of the Complaint.

(7) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (7) of the Complaint.

(8) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (8) of the Complaint.

9(A) Affinity admits the allegations set forth by Paragraph 9(A) of the Complaint.

9(B) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 9(B) of the Complaint.

9(C) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 9(C) of the Complaint.

9(D) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 9(D) of the Complaint.

9(E) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 9(E) of the Complaint.

(10) Affinity admits the allegations set forth by Paragraph (10) of the Complaint, except denies that the “National Nurses Organizing Committee” is a labor organization within the meaning of Section 2(5) of the Act.

11(A) Affinity admits the allegations set forth by Paragraph 11(A) of the Complaint.

11(B) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 11(B) of the Complaint.

11(C) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 11(C) of the Complaint.

(12) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (12) of the Complaint.

13(A) Affinity admits the allegations set forth by Paragraph 13(A) of the Complaint.

13(B) Affinity admits the allegations set forth by Paragraph 13(B) of the Complaint.

13(C) Affinity denies the allegations set forth by Paragraph 13(C) of the Complaint.

(14) Affinity denies each and every allegation set forth by Paragraph (14) of the Complaint.

(15) Affinity denies each and every allegation set forth by Paragraph (15) of the Complaint.

(16) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (16) of the Complaint.

(17) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (17) of the Complaint.

(18) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (18) of the Complaint.

(19) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (19) of the Complaint.

(20) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (20) of the Complaint.

(21) Affinity denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (21) of the Complaint.

(22) Affinity avers that the allegations set forth by Paragraph (22) of the Complaint are ambiguous and not susceptible to admission or denial, insofar as the allegations identify “Respondent” in circumstances where the Complaint fails to define “Respondent.” To the extent the allegations set forth by Paragraph (22) of the Complaint are intended to implicate Affinity, the Hospital denies the allegations.

(23) Affinity avers that the allegations set forth by Paragraph (23) of the Complaint are ambiguous and not susceptible to admission or

denial, insofar as the allegations identify “Respondent” in circumstances where the Complaint fails to define “Respondent.” To the extent the allegations set forth by Paragraph (23) of the Complaint are intended to implicate Affinity, the Hospital denies the allegations.

FIRST AFFIRMATIVE DEFENSE

(24) Affinity avers that the Certification of Representative referenced by Paragraph 13(B) of the Complaint is not valid and is unenforceable as a matter of law, insofar as the Certification is the byproduct of a Consent Election Agreement, which was approved by the Board at a point when the Board lacked the quorum required by Section 3(b) of the Act. See Noel Canning v. NLRB, 134 S. Ct. 2550 (2014); New Process Steel, L.P. v. NLRB, 560 U.S. 674 (2010).

SECOND AFFIRMATIVE DEFENSE

(25) Affinity avers that the Certification of Representative referenced by Paragraph 13(B) of the Complaint is not valid and is unenforceable as a matter of law, insofar as the Certification was issued by the Board at a point when the Board lacked the quorum required by Section 3(b) of the Act. See Noel Canning v. NLRB, 134 S. Ct. 2550 (2014); New Process Steel, L.P. v. NLRB, 560 U.S. 674 (2010).

THIRD AFFIRMATIVE DEFENSE

(26) The General Counsel is barred from any prosecution of the allegations set forth by the Complaint. See Jefferson Chemical, 200 NLRB 992 (1972).

WHEREFORE, Affinity respectfully requests that the Complaint be dismissed in its entirety.

Dated: Glastonbury, CT
March 21, 2016

Respectfully submitted,

/s/ _____

Bryan T. Carmody, Esq.
Carmody & Carmody, LLP
Attorneys for DHSC, LLC d/b/a Affinity
Medical Center, Hospital of Barstow, Inc.
d/b/a Barstow Community Hospital and
Watsonville Hospital Corporation d/b/a
Watsonville Community Hospital
134 Evergreen Lane
Glastonbury, CT 06033
(203) 249-9287
bryancarmody@bellsouth.net

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8**

DHSC, LLC d/b/a AFFINITY MEDICAL CENTER, HOSPITAL OF BARSTOW, INC. d/b/a BARSTOW COMMUNITY HOSPITAL, WATSONVILLE HOSPITAL CORPORATION d/b/a WATSONVILLE COMMUNITY HOSPITAL, COMMUNITY HEALTH SYSTEMS, INC. and / or COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers and NATIONAL NURSES ORGANIZING COMMITTEE (NNOC), CALIFORNIA NURSES ASSOCIATION / NATIONAL NURSES ORGANIZING COMMITTEE (CNA/NNOC) and CALIFORNIA NURSES ASSOCIATION (CNA), NATIONAL NURSES UNITED	08-CA-167313
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CERTIFICATE OF SERVICE

The Undersigned, Bryan T. Carmody, being an Attorney duly
admitted to the practice of law, does hereby certify, pursuant to 28 U.S.C. §
1746, that, on March 21, 2016, the document above was served upon the
following *via* email:

Aaron Sukert, Esq.
Counsel for the General Counsel
National Labor Relations Board, Region 8
1695 AJC Federal Office Building
1240 East Ninth Street
Cleveland, OH 44199

Aaron.Sukert@nlrb.gov

Leonard Sachs, Esq.
Counsel for Respondent Community Health Systems, Inc.
Howard & Howard
211 Fulton Street, Suite 600
Peoria, IL 61602
LSachs@HowardandHoward.com

Tracy Litzinger, Esq.
Counsel for Respondent Community Health Systems, Inc.
Howard & Howard
211 Fulton Street, Suite 600
Peoria, IL 61602
TLitzinger@HowardandHoward.com

Robert Hudson, Esq.
Counsel for Respondent CHSPSC, LLC
Frost Brown Nixon
7310 Turfway Road, Suite 210
Florence, KY 41042
rhudson@fbtlaw.com

Jane Lawhon, Esq.
Counsel for Charging Party California Nurses Association
2000 Franklin Street
Oakland, CA 94612
JLawhon@CalNurses.Org

Brendan White, Esq.
Counsel for Charging Party California Nurses Association
2000 Franklin Street
Oakland, CA 94612
BWhite@CalNurses.Org

Nicole Daro, Esq.
Counsel for Charging Party California Nurses Association
2000 Franklin Street
Oakland, CA 94612
NDaro@CalNurses.Org

Dated: Glastonbury, CT
March 21, 2016

Respectfully submitted,

/s/ _____

Bryan T. Carmody, Esq.
Carmody & Carmody, LLP
Attorneys for DHSC, LLC d/b/a Affinity
Medical Center, Hospital of Barstow, Inc.
d/b/a Barstow Community Hospital and
Watsonville Hospital Corporation d/b/a
Watsonville Community Hospital
134 Evergreen Lane
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**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8**

DHSC, LLC d/b/a AFFINITY MEDICAL CENTER, HOSPITAL OF BARSTOW, INC. d/b/a BARSTOW COMMUNITY HOSPITAL, WATSONVILLE HOSPITAL CORPORATION d/b/a WATSONVILLE COMMUNITY HOSPITAL, COMMUNITY HEALTH SYSTEMS, INC. and / or COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers and NATIONAL NURSES ORGANIZING COMMITTEE (NNOC), CALIFORNIA NURSES ASSOCIATION / NATIONAL NURSES ORGANIZING COMMITTEE (CNA/NNOC) and CALIFORNIA NURSES ASSOCIATION (CNA), NATIONAL NURSES UNITED	08-CA-167313
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**RESPONDENT HOSPITAL OF BARSTOW INC. D/B/A BARSTOW
COMMUNITY HOSPITAL'S ANSWER TO COMPLAINT**

As a Respondent in the above-captioned cases, Hospital of Barstow, Inc. d/b/a Barstow Community Hospital (hereafter, "Barstow" or the "Hospital"), hereby answers, by and through its Undersigned Counsel, the Complaint and Notice of Hearing (hereafter, the "Complaint") issued by Mr. Allen Binstock, the Regional Director for Region 8 of the National Labor Relations Board (hereafter, the "Board"), on February 29, 2016.

(1) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (1) of the Complaint.

2(A) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 2(A) of the Complaint.

2(B) Barstow admits the allegations set forth by Paragraph 2(B) of the Complaint.

2(C) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 2(C) of the Complaint.

2(D) Barstow denies each and every allegation set forth by Paragraph 2(D) of the Complaint which implicates Barstow, except admits, based upon information and belief, the source of such information and belief being common knowledge derived from the public domain, that CHSI, being a Delaware corporation with its principal office and place of business in Franklin, Tennessee, operates as a holding company. Barstow further denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 2(D) of the Complaint which do not implicate Barstow, excepts denies the specific allegation that CHSI is

engaged in the operation of Barstow, to the extent the allegations set forth by Paragraph 2(D) of the Complaint imply that CHSI is engaged in the operation of Barstow.

2(E) Barstow denies each and every allegation set forth by Paragraph 2(E) of the Complaint which implicates Barstow, except admits, based upon information and belief, the source of such information and belief being common knowledge derived from the public domain, that CHSPSC, with its principal office and place of business in Franklin, Tennessee, operates as a Limited Liability Corporation. Barstow further denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 2(E) of the Complaint which do not implicate Barstow, excepts denies the specific allegation that CHSPSC is engaged in the operation of Barstow, to the extent the allegations set forth by Paragraph 2(E) of the Complaint imply that CHSPSC is engaged in the operation of Barstow.

(3) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (3) of the Complaint.

(4) Barstow denies each and every allegation set forth by Paragraph (4) of the Complaint.

(5) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (5) of the Complaint.

(6) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (6) of the Complaint.

(7) Barstow denies each and every allegation set forth by Paragraph (7) of the Complaint.

(8) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (8) of the Complaint.

9(A) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 9(A) of the Complaint.

9(B) Barstow admits the allegations set forth by Paragraph 9(B) of the Complaint.

9(C) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 9(C) of the Complaint.

9(D) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 9(D) of the Complaint.

9(E) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 9(E) of the Complaint.

(10) Barstow admits the allegations set forth by Paragraph (10) of the Complaint, except denies that the “National Nurses Organizing Committee” is a labor organization within the meaning of Section 2(5) of the Act.

11(A) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 11(A) of the Complaint.

11(B) Barstow admits the allegations set forth by Paragraph 11(B) of the Complaint.

11(C) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 11(C) of the Complaint.

(12) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (12) of the Complaint.

(13) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (13) of the Complaint.

(14) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (14) of the Complaint.

(15) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (15) of the Complaint.

16(A) Barstow admits the allegations set forth by Paragraph 16(A) of the Complaint.

16(B) Barstow admits the allegations set forth by Paragraph 16(B) of the Complaint.

16(C) Barstow denies the allegations set forth by Paragraph 16(C) of the Complaint.

(17) Barstow denies each and every allegation set forth by Paragraph (17) of the Complaint.

(18) Barstow denies each and every allegation set forth by Paragraph (18) of the Complaint.

(19) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (19) of the Complaint.

(20) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (20) of the Complaint.

(21) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (21) of the Complaint.

(22) Barstow avers that the allegations set forth by Paragraph (22) of the Complaint are ambiguous and not susceptible to admission or denial, insofar as the allegations identify “Respondent” in circumstances where the Complaint fails to define “Respondent.” To the extent the

allegations set forth by Paragraph (22) of the Complaint are intended to implicate Barstow, the Hospital denies the allegations.

(23) Barstow avers that the allegations set forth by Paragraph (23) of the Complaint are ambiguous and not susceptible to admission or denial, insofar as the allegations identify “Respondent” in circumstances where the Complaint fails to define “Respondent.” To the extent the allegations set forth by Paragraph (23) of the Complaint are intended to implicate Barstow, the Hospital denies the allegations.

FIRST AFFIRMATIVE DEFENSE

(24) Barstow avers that the Certification of Representative referenced by Paragraph 16(B) of the Complaint is not valid and is unenforceable as a matter of law, insofar as the Certification is the byproduct of a Consent Election Agreement, which was approved by the Board at a point when the Board lacked the quorum required by Section 3(b) of the Act. See Noel Canning v. NLRB, 134 S. Ct. 2550 (2014); New Process Steel, L.P. v. NLRB, 560 U.S. 674 (2010).

SECOND AFFIRMATIVE DEFENSE

(25) Barstow avers that the Certification of Representative referenced by Paragraph 16(B) of the Complaint is not valid and is unenforceable as a matter of law, insofar as the Certification was issued by

the Board at a point when the Board lacked the quorum required by Section 3(b) of the Act. See Noel Canning v. NLRB, 134 S. Ct. 2550 (2014); New Process Steel, L.P. v. NLRB, 560 U.S. 674 (2010).

THIRD AFFIRMATIVE DEFENSE

(26) The General Counsel is barred from any prosecution of the allegations set forth by the Complaint. See Jefferson Chemical, 200 NLRB 992 (1972).

WHEREFORE, Barstow respectfully requests that the Complaint be dismissed in its entirety.

Dated: Glastonbury, CT
March 21, 2016

Respectfully submitted,

/s/ _____

Bryan T. Carmody, Esq.
Carmody & Carmody, LLP
Attorneys for DHSC, LLC d/b/a Affinity
Medical Center, Hospital of Barstow, Inc.
d/b/a Barstow Community Hospital and
Watsonville Hospital Corporation d/b/a
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134 Evergreen Lane
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**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8**

DHSC, LLC d/b/a AFFINITY MEDICAL CENTER, HOSPITAL OF BARSTOW, INC. d/b/a BARSTOW COMMUNITY HOSPITAL, WATSONVILLE HOSPITAL CORPORATION d/b/a WATSONVILLE COMMUNITY HOSPITAL, COMMUNITY HEALTH SYSTEMS, INC. and / or COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers and NATIONAL NURSES ORGANIZING COMMITTEE (NNOC), CALIFORNIA NURSES ASSOCIATION / NATIONAL NURSES ORGANIZING COMMITTEE (CNA/NNOC) and CALIFORNIA NURSES ASSOCIATION (CNA), NATIONAL NURSES UNITED	08-CA-167313
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CERTIFICATE OF SERVICE

The Undersigned, Bryan T. Carmody, being an Attorney duly
admitted to the practice of law, does hereby certify, pursuant to 28 U.S.C. §
1746, that, on March 21, 2016, the document above was served upon the
following *via* email:

Aaron Sukert, Esq.
Counsel for the General Counsel
National Labor Relations Board, Region 8
1695 AJC Federal Office Building
1240 East Ninth Street
Cleveland, OH 44199

Aaron.Sukert@nlrb.gov

Leonard Sachs, Esq.
Counsel for Respondent Community Health Systems, Inc.
Howard & Howard
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LSachs@HowardandHoward.com

Tracy Litzinger, Esq.
Counsel for Respondent Community Health Systems, Inc.
Howard & Howard
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Robert Hudson, Esq.
Counsel for Respondent CHSPSC, LLC
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Brendan White, Esq.
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BWhite@CalNurses.Org

Nicole Daro, Esq.
Counsel for Charging Party California Nurses Association
2000 Franklin Street
Oakland, CA 94612
NDaro@CalNurses.Org

Dated: Glastonbury, CT
March 21, 2016

Respectfully submitted,

/s/ _____

Bryan T. Carmody, Esq.
Carmody & Carmody, LLP
Attorneys for DHSC, LLC d/b/a Affinity
Medical Center, Hospital of Barstow, Inc.
d/b/a Barstow Community Hospital and
Watsonville Hospital Corporation d/b/a
Watsonville Community Hospital
134 Evergreen Lane
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**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
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DHSC, LLC d/b/a AFFINITY MEDICAL CENTER, HOSPITAL OF BARSTOW, INC. d/b/a BARSTOW COMMUNITY HOSPITAL, WATSONVILLE HOSPITAL CORPORATION d/b/a WATSONVILLE COMMUNITY HOSPITAL, COMMUNITY HEALTH SYSTEMS, INC. and / or COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers and NATIONAL NURSES ORGANIZING COMMITTEE (NNOC), CALIFORNIA NURSES ASSOCIATION / NATIONAL NURSES ORGANIZING COMMITTEE (CNA/NNOC) and CALIFORNIA NURSES ASSOCIATION (CNA), NATIONAL NURSES UNITED	08-CA-167313
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**RESPONDENT WATSONVILLE HOSPITAL CORPORATION D/B/A
WATSONVILLE COMMUNITY HOSPITAL'S ANSWER TO
COMPLAINT**

As a Respondent in the above-captioned cases, Watsonville Hospital Corporation d/b/a Watsonville Community Hospital (hereafter, "Watsonville" or the "Hospital"), hereby answers, by and through its Undersigned Counsel, the Complaint and Notice of Hearing (hereafter, the "Complaint") issued by Mr. Allen Binstock, the Regional Director for

Region 8 of the National Labor Relations Board (hereafter, the “Board”), on February 29, 2016.

(1) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (1) of the Complaint.

2(A) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 2(A) of the Complaint.

2(B) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 2(B) of the Complaint.

2(C) Watsonville admits the allegations set forth by Paragraph 2(C) of the Complaint.

2(D) Watsonville denies each and every allegation set forth by Paragraph 2(D) of the Complaint which implicates Watsonville, except admits, based upon information and belief, the source of such information and belief being common knowledge derived from the public domain, that CHSI, being a Delaware corporation with its principal office and place of business in Franklin, Tennessee, operates as a holding company. Watsonville further denies knowledge or information sufficient to

form a belief as to the truth of the allegations set forth in Paragraph 2(D) of the Complaint which do not implicate Watsonville, excepts denies the specific allegation that CHSI is engaged in the operation of Watsonville, to the extent the allegations set forth by Paragraph 2(D) of the Complaint imply that CHSI is engaged in the operation of Watsonville.

2(E) Watsonville denies each and every allegation set forth by Paragraph 2(E) of the Complaint which implicates Watsonville, except admits, based upon information and belief, the source of such information and belief being common knowledge derived from the public domain, that CHSPSC, with its principal office and place of business in Franklin, Tennessee, operates as a Limited Liability Corporation. Watsonville further denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 2(E) of the Complaint which do not implicate Watsonville, excepts denies the specific allegation that CHSPSC is engaged in the operation of Watsonville, to the extent the allegations set forth by Paragraph 2(E) of the Complaint imply that CHSPSC is engaged in the operation of Watsonville.

(3) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (3) of the Complaint.

(4) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (4) of the Complaint.

(5) Watsonville denies each and every allegation set forth by Paragraph (5) of the Complaint.

(6) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (6) of the Complaint.

(7) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (7) of the Complaint.

(8) Watsonville denies each and every allegation set forth by Paragraph (8) of the Complaint.

9(A) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 9(A) of the Complaint.

9(B) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 9(B) of the Complaint.

9(C) Watsonville admits the allegations set forth by Paragraph 9(C) of the Complaint, except avers that the allegations set forth by Paragraph 9(C)(3) are not material to the above-captioned cases, nor are the allegations relevant to any issue that may be material to the above-captioned cases.

9(D) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 9(D) of the Complaint.

9(E) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 9(E) of the Complaint.

(10) Watsonville admits the allegations set forth by Paragraph (10) of the Complaint, except denies that the “National Nurses Organizing Committee” is a labor organization within the meaning of Section 2(5) of the Act.

11(A) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 11(A) of the Complaint.

11(B) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 11(B) of the Complaint.

11(C) Watsonville admits the allegations set forth by Paragraph 11(C) of the Complaint.

(12) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (12) of the Complaint.

(13) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (13) of the Complaint.

(14) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (14) of the Complaint.

(15) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (15) of the Complaint.

(16) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (16) of the Complaint.

(17) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (17) of the Complaint.

(18) Watsonville denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (18) of the Complaint.

(19) Watsonville admits the allegations set forth by Paragraph (19) of the Complaint.

(20) Watsonville denies each and every allegation set forth by Paragraph (20) of the Complaint.

(21) Watsonville denies each and every allegation set forth by Paragraph (21) of the Complaint.

(22) Watsonville avers that the allegations set forth by Paragraph (22) of the Complaint are ambiguous and not susceptible to admission or denial, insofar as the allegations identify "Respondent" in circumstances where the Complaint fails to define "Respondent." To the extent the allegations set forth by Paragraph (22) of the Complaint are intended to implicate Watsonville, the Hospital denies the allegations.

(23) Watsonville avers that the allegations set forth by Paragraph (23) of the Complaint are ambiguous and not susceptible to

admission or denial, insofar as the allegations identify “Respondent” in circumstances where the Complaint fails to define “Respondent.” To the extent the allegations set forth by Paragraph (23) of the Complaint are intended to implicate Watsonville, the Hospital denies the allegations.

FIRST AFFIRMATIVE DEFENSE

(24) The General Counsel is barred from any prosecution of the allegations set forth by the Complaint. See Jefferson Chemical, 200 NLRB 992 (1972).

WHEREFORE, Watsonville respectfully requests that the Complaint be dismissed in its entirety.

Dated: Glastonbury, CT
March 21, 2016

Respectfully submitted,

/s/ _____

Bryan T. Carmody, Esq.
Carmody & Carmody, LLP
Attorneys for DHSC, LLC d/b/a Affinity
Medical Center, Hospital of Barstow, Inc.
d/b/a Barstow Community Hospital and
Watsonville Hospital Corporation d/b/a
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**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8**

DHSC, LLC d/b/a AFFINITY MEDICAL CENTER, HOSPITAL OF BARSTOW, INC. d/b/a BARSTOW COMMUNITY HOSPITAL, WATSONVILLE HOSPITAL CORPORATION d/b/a WATSONVILLE COMMUNITY HOSPITAL, COMMUNITY HEALTH SYSTEMS, INC. and / or COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers and NATIONAL NURSES ORGANIZING COMMITTEE (NNOC), CALIFORNIA NURSES ASSOCIATION / NATIONAL NURSES ORGANIZING COMMITTEE (CNA/NNOC) and CALIFORNIA NURSES ASSOCIATION (CNA), NATIONAL NURSES UNITED	08-CA-167313
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CERTIFICATE OF SERVICE

The Undersigned, Bryan T. Carmody, being an Attorney duly
admitted to the practice of law, does hereby certify, pursuant to 28 U.S.C. §
1746, that, on March 21, 2016, the document above was served upon the
following *via* email:

Aaron Sukert, Esq.
Counsel for the General Counsel
National Labor Relations Board, Region 8
1695 AJC Federal Office Building
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Aaron.Sukert@nlrb.gov

Leonard Sachs, Esq.
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Nicole Daro, Esq.
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Dated: Glastonbury, CT
March 21, 2016

Respectfully submitted,

/s/ _____

Bryan T. Carmody, Esq.
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Medical Center, Hospital of Barstow, Inc.
d/b/a Barstow Community Hospital and
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**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8**

GREENBRIER VMC, LLC d/b/a GREENBRIER VALLEY MEDICAL CENTER, COMMUNITY HEALTH SYSTEMS, INC. and COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers and NATIONAL NURSES ORGANIZING COMMITTEE (NNOC), AFL-CIO	10-CA-167330
BLUEFIELD HOSPITAL COMPANY, LLC d/b/a BLUEFIELD REGIONAL MEDICAL CENTER, COMMUNITY HEALTH SYSTEMS, INC. and COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers and NATIONAL NURSES ORGANIZING COMMITTEE (NNOC), AFL-CIO	10-CA-168085

**RESPONDENT BLUEFIELD HOSPITAL COMPANY, LLC D/B/A
BLUEFIELD REGIONAL MEDICAL CENTER'S ANSWER TO
CONSOLIDATED COMPLAINT**

As a Respondent in the above-captioned cases, Bluefield Hospital Company, LLC d/b/a Bluefield Regional Medical Center (hereafter, "Bluefield" or the "Hospital"), hereby answers, by and through its Undersigned Counsel, the Order Consolidating Cases, Consolidated

Complaint and Notice of Hearing (hereafter, the “Complaint”) issued by Mr. Allen Binstock, the Regional Director for Region 8 of the National Labor Relations Board (hereafter, the “Board”), on March 10, 2016.

(1) Bluefield denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (1) of the Complaint.

(2) Bluefield denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (2) of the Complaint.

3(A) Bluefield denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 3(A) of the Complaint.

3(B) Bluefield admits the allegations set forth by Paragraph 3(B) of the Complaint.

3(C) Bluefield denies each and every allegation set forth by Paragraph 3(C) of the Complaint which implicates Bluefield, except admits, based upon information and belief, the source of such information and belief being common knowledge derived from the public domain, that CHSI, being a Delaware corporation with its principal office and place of business in Franklin, Tennessee, operates as a holding company. Bluefield

further denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 3(C) of the Complaint which do not implicate Bluefield, excepts denies the specific allegation that CHSI is engaged in the operation of Bluefield, to the extent the allegations set forth by Paragraph 2(D) of the Complaint imply that CHSI is engaged in the operation of Bluefield.

3(D) Bluefield denies each and every allegation set forth by Paragraph 3(D) of the Complaint which implicates Bluefield, except admits, based upon information and belief, the source of such information and belief being common knowledge derived from the public domain, that CHSPSC, with its principal office and place of business in Franklin, Tennessee, operates as a Limited Liability Corporation. Bluefield further denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 3(D) of the Complaint which do not implicate Bluefield, excepts denies the specific allegation that CHSPSC is engaged in the operation of Bluefield, to the extent the allegations set forth by Paragraph 3(D) of the Complaint imply that CHSPSC is engaged in the operation of Bluefield.

(4) Bluefield denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (4) of the Complaint.

(5) Bluefield denies each and every allegation set forth by Paragraph (5) of the Complaint.

(6) Bluefield denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (6) of the Complaint.

(7) Bluefield denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (7) of the Complaint.

(8) Bluefield denies each and every allegation set forth by Paragraph (8) of the Complaint.

9(A) Bluefield denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 9(A) of the Complaint.

9(B) Bluefield admits the allegations set forth by Paragraph 9(B) of the Complaint.

9(C) Bluefield denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 9(C) of the Complaint.

9(D) Bluefield denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 9(D) of the Complaint.

(10) Bluefield denies the allegations set forth by Paragraph (10) of the Complaint.

(11) Bluefield denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (11) of the Complaint.

12(A) Bluefield admits the allegations set forth by Paragraph 12(A) of the Complaint.

12(B) Bluefield denies the allegations set forth by Paragraph 12(B) of the Complaint that Ms. Ellis held the position of “Director, Employee Relations and / or Human Resources Representative” and avers that she held the position of “Director, Employee Relations.” Bluefield admits that Ms. Ellis has been an agent of Bluefield within the meaning of Section 2(13) of the Act and denies knowledge or information sufficient to

form a belief as to whether Ms. Ellis has been an agent of CHSPSC or CHSI within the meaning of Section 2(13) of the Act.

12(C) Bluefield denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 12(C) of the Complaint.

(13) Bluefield denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (13) of the Complaint.

(14) Bluefield denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (14) of the Complaint.

(15) Bluefield denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (15) of the Complaint.

(16) Bluefield denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (16) of the Complaint.

(17) Bluefield denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (17) of the Complaint.

18(A) Bluefield admits the allegations set forth by Paragraph 18(A) of the Complaint.

18(B) Bluefield admits the allegations set forth by Paragraph 18(A) of the Complaint.

18(C) Bluefield denies the allegations set forth by Paragraph 18(C) of the Complaint.

19(A) Bluefield admits the allegations set forth by Paragraph 19(A) of the Complaint.

19(B) Bluefield denies the allegations set forth by Paragraph 19(B) of the Complaint.

19(C) Bluefield denies the allegations set forth by Paragraph 19(C) of the Complaint.

(20) Bluefield denies the allegations set forth by Paragraph (20) of the Complaint.

(21) Bluefield denies the allegations set forth by Paragraph (21) of the Complaint.

FIRST AFFIRMATIVE DEFENSE

(22) Bluefield avers that the Certification of Representative referenced by Paragraph 18(B) of the Complaint is not valid and is unenforceable as a matter of law, insofar as the Certification is the byproduct

of a Consent Election Agreement, which was approved by the Board at a point when the Board lacked the quorum required by Section 3(b) of the Act. See Noel Canning v. NLRB, 134 S. Ct. 2550 (2014); New Process Steel, L.P. v. NLRB, 560 U.S. 674 (2010).

SECOND AFFIRMATIVE DEFENSE

(23) Bluefield avers that the Certification of Representative referenced by Paragraph 18(B) of the Complaint is not valid and is unenforceable as a matter of law, insofar as the Certification was issued by the Board at a point when the Board lacked the quorum required by Section 3(b) of the Act. See Noel Canning v. NLRB, 134 S. Ct. 2550 (2014); New Process Steel, L.P. v. NLRB, 560 U.S. 674 (2010).

THIRD AFFIRMATIVE DEFENSE

(24) The General Counsel is barred from any prosecution of the allegations set forth by the Complaint. See Jefferson Chemical, 200 NLRB 992 (1972).

WHEREFORE, Bluefield respectfully requests that the Complaint be dismissed in its entirety.

Dated: Glastonbury, CT
March 23, 2016

Respectfully submitted,

/s/ _____

Bryan T. Carmody, Esq.
Carmody & Carmody, LLP
Attorneys for Bluefield Hospital Company,
LLC d/b/a Bluefield Regional Medical
Center and Greenbrier VMC, LLC d/b/a
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**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8**

GREENBRIER VMC, LLC d/b/a GREENBRIER VALLEY MEDICAL CENTER, COMMUNITY HEALTH SYSTEMS, INC. and COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers and NATIONAL NURSES ORGANIZING COMMITTEE (NNOC), AFL-CIO	10-CA-167330
BLUEFIELD HOSPITAL COMPANY, LLC d/b/a BLUEFIELD REGIONAL MEDICAL CENTER, COMMUNITY HEALTH SYSTEMS, INC. and COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers and NATIONAL NURSES ORGANIZING COMMITTEE (NNOC), AFL-CIO	10-CA-168085

CERTIFICATE OF SERVICE

The Undersigned, Bryan T. Carmody, being an Attorney duly admitted to the practice of law, does hereby certify, pursuant to 28 U.S.C. § 1746, that, on March 23, 2016, the document above was served upon the following *via* email:

Aaron Sukert, Esq.

Counsel for the General Counsel
National Labor Relations Board, Region 8
1695 AJC Federal Office Building
1240 East Ninth Street
Cleveland, OH 44199
Aaron.Sukert@nrlrb.gov

Leonard Sachs, Esq.
Counsel for Respondent Community Health Systems, Inc.
Howard & Howard
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Tracy Litzinger, Esq.
Counsel for Respondent Community Health Systems, Inc.
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Robert Hudson, Esq.
Counsel for Respondent CHSPSC, LLC
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Jane Lawhon, Esq.
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Brendan White, Esq.
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Nicole Daro, Esq.
Counsel for Charging Party California Nurses Association
2000 Franklin Street
Oakland, CA 94612
NDaro@CalNurses.Org

Dated: Glastonbury, CT
March 23, 2016

Respectfully submitted,

/s/ _____

Bryan T. Carmody, Esq.
Carmody & Carmody, LLP
Attorneys for Bluefield Hospital Company,
LLC d/b/a Bluefield Regional Medical
Center and Greenbrier VMC, LLC d/b/a
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**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8**

GREENBRIER VMC, LLC d/b/a GREENBRIER VALLEY MEDICAL CENTER, COMMUNITY HEALTH SYSTEMS, INC., and COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers and NATIONAL NURSES ORGANIZING COMMITTEE (NNOC), AFL-CIO	10-CA-167330
BLUEFIELD HOSPITAL COMPANY, LLC d/b/a BLUEFIELD REGIONAL MEDICAL CENTER, COMMUNITY HEALTH SYSTEMS, INC., and COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers and NATIONAL NURSES ORGANIZING COMMITTEE (NNOC), AFL-CIO	10-CA-168085

RESPONDENT GREENBRIER VMC, LLC D/B/A GREENBRIER VALLEY MEDICAL CENTER'S ANSWER TO CONSOLIDATED COMPLAINT

As a Respondent in the above-captioned cases, Greenbrier VMC, LLC d/b/a Greenbrier Valley Medical Center (hereafter, "Greenbrier" or the "Hospital"), hereby answers, by and through its Undersigned Counsel, the Order Consolidating Cases, Consolidated Complaint and Notice of Hearing

(hereafter, the “Complaint”) issued by Mr. Allen Binstock, the Regional Director for Region 8 of the National Labor Relations Board (hereafter, the “Board”), on March 10, 2016.

(1) Greenbrier denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (1) of the Complaint.

(2) Greenbrier denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (2) of the Complaint.

3(A) Greenbrier admits the allegations set forth by Paragraph 3(A) of the Complaint.

3(B) Greenbrier denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 3(B) of the Complaint.

3(C) Greenbrier denies each and every allegation set forth by Paragraph 3(C) of the Complaint which implicates Greenbrier, except admits, based upon information and belief, the source of such information and belief being common knowledge derived from the public domain, that CHSI, being a Delaware corporation with its principal office and place of business in Franklin, Tennessee, operates as a holding

company. Greenbrier further denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 3(C) of the Complaint which do not implicate Greenbrier, excepts denies the specific allegation that CHSI is engaged in the operation of Greenbrier, to the extent the allegations set forth by Paragraph 2(D) of the Complaint imply that CHSI is engaged in the operation of Greenbrier.

3(D) Greenbrier denies each and every allegation set forth by Paragraph 3(D) of the Complaint which implicates Greenbrier, except admits, based upon information and belief, the source of such information and belief being common knowledge derived from the public domain, that CHSPSC, with its principal office and place of business in Franklin, Tennessee, operates as a Limited Liability Corporation. Greenbrier further denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 3(D) of the Complaint which do not implicate Greenbrier, excepts denies the specific allegation that CHSPSC is engaged in the operation of Greenbrier, to the extent the allegations set forth by Paragraph 3(D) of the Complaint imply that CHSPSC is engaged in the operation of Greenbrier.

(4) Greenbrier denies each and every allegation set forth by Paragraph (4) of the Complaint.

(5) Greenbrier denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (5) of the Complaint.

(6) Greenbrier denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (6) of the Complaint.

(7) Greenbrier denies each and every allegation set forth by Paragraph (7) of the Complaint.

(8) Greenbrier denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (8) of the Complaint.

9(A) Greenbrier admits the allegations set forth by Paragraph 9(A) of the Complaint.

9(B) Greenbrier denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 9(B) of the Complaint.

9(C) Greenbrier denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 9(C) of the Complaint.

9(D) Greenbrier denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 9(D) of the Complaint.

(10) Greenbrier denies the allegations set forth by Paragraph (10) of the Complaint.

11(A) Greenbrier admits the allegations as they relate to Mr. Hanna. Greenbrier denies the allegations as they relate to Ms. Lilly and avers that, from on or about February 24, 2013 to on or about October 5, 2014, she held the position of “ICU Director,” and during that period of time, Ms. Lilly was a supervisor and agent of Greenbrier within the meaning of Sections 2(11) and 2(13) of the Act, respectively. Greenbrier denies the allegations as they relate to Ms. Hayes.

11(B) Greenbrier denies the allegations set forth by Paragraph 11(B) of the Complaint that Ms. Ellis held the position of “Director, Employee Relations and / or Human Resources Representative” and avers that she held the position of “Director, Employee Relations.” Greenbrier admits that Ms. Ellis has been an agent of Greenbrier within the meaning of Section 2(13) of the Act and denies knowledge or information sufficient to form a belief as to whether Ms. Ellis has been an agent of CHSPSC or CHSI within the meaning of Section 2(13) of the Act.

11(C) Greenbrier denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 11(C) of the Complaint.

(12) Greenbrier denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (12) of the Complaint.

13(A) Greenbrier admits the allegations set forth by Paragraph 13(A) of the Complaint.

13(B) Greenbrier admits the allegations set forth by Paragraph 13(B) of the Complaint.

13(C) Greenbrier denies the allegations set forth by Paragraph 13(C) of the Complaint.

14(A) Greenbrier admits the allegations set forth by Paragraph 14(A) of the Complaint.

14(B) Greenbrier admits the allegations set forth by Paragraph 14(B) of the Complaint.

14(C) Greenbrier admits the allegations set forth by Paragraph 14(C) of the Complaint.

14(D) Greenbrier denies the allegations set forth by Paragraph 14(D) of the Complaint, but avers, subject to and without waiver of

Greenbrier's response to Paragraph (10) of the Complaint, that Greenbrier received a written communication from the NNOC dated August 19, 2015.

14(E) Greenbrier admits the allegations set forth by Paragraph 14(E) of the Complaint.

14(F) Greenbrier admits the allegations set forth by Paragraph 14(F) of the Complaint.

14(G) Greenbrier denies the allegations set forth by Paragraph 14(G) of the Complaint.

14(H) Greenbrier denies the allegations set forth by Paragraph 14(H) of the Complaint.

15(A) Greenbrier denies the allegations set forth by Paragraph 15(A) of the Complaint, but avers, subject to and without waiver of Greenbrier's response to Paragraph (10) of the Complaint, that Greenbrier received a written communication from the NNOC dated August 19, 2015.

15(B) Greenbrier denies the allegations set forth by Paragraph 15(B) of the Complaint.

15(C) Greenbrier denies the allegations set forth by Paragraph 15(C) of the Complaint.

(16) Greenbrier denies each and every allegation set forth by Paragraph (16) of the Complaint.

17(A) Greenbrier admits the allegations set forth by Paragraph 17(A) of the Complaint.

17(B) Greenbrier denies the allegations set forth by Paragraph 17(B) of the Complaint.

17(C) Greenbrier denies the allegations set forth by Paragraph 17(C) of the Complaint.

(18) Greenbrier denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (18) of the Complaint.

(19) Greenbrier denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (19) of the Complaint.

(20) Greenbrier denies the allegations set forth by Paragraph (20) of the Complaint.

(21) Greenbrier denies the allegations set forth by Paragraph (21) of the Complaint.

FIRST AFFIRMATIVE DEFENSE

(22) Greenbrier avers that the Certification of Representative referenced by Paragraph 13(B) of the Complaint is not valid and is unenforceable as a matter of law, insofar as the Certification is the byproduct

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Dated: Glastonbury, CT
March 23, 2016

Respectfully submitted,

/s/ _____

Bryan T. Carmody, Esq.
Carmody & Carmody, LLP
Attorneys for Bluefield Hospital Company,
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**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8**

HOSPITAL OF BARSTOW, INC. D/B/A BARSTOW COMMUNITY HOSPITAL, COMMUNITY HEALTH SYSTEMS, INC., and / or COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers and CALIFORNIA NURSES ASSOCIATION / NATIONAL NURSES ORGANIZING COMMITTEE (CNA / NNOC)	31-CA-167522
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**RESPONDENT HOSPITAL OF BARSTOW, INC. D/B/A BARSTOW
COMMUNITY HOSPITAL'S ANSWER TO COMPLAINT**

As a Respondent in the above-captioned case, Hospital of Barstow, Inc. d/b/a Barstow Community Hospital (hereafter, "Barstow" or the "Hospital"), hereby answers, by and through its Undersigned Counsel, the Complaint and Notice of Hearing (hereafter, the "Complaint") issued by Mr. Allen Binstock, the Regional Director for Region 8 of the National Labor Relations Board (hereafter, the "Board"), on April 8, 2016.

1(A) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 1(A) of the Complaint.

1(B) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 1(B) of the Complaint.

2(A) Barstow admits the allegations set forth by Paragraph 2(A) of the Complaint.

2(B) Barstow denies each and every allegation set forth by Paragraph 2(B) of the Complaint which implicates Barstow, except admits, based upon information and belief, the source of such information and belief being common knowledge derived from the public domain, that CHSI, being a Delaware corporation with its principal office and place of business in Franklin, Tennessee, operates as a holding company. Barstow further denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 2(B) of the Complaint which do not implicate Barstow, excepts denies the specific allegation that CHSI is engaged in the operation of Barstow, to the extent the allegations set forth by Paragraph 2(B) of the Complaint imply that CHSI is engaged in the operation of Barstow.

2(C) Barstow denies each and every allegation set forth by Paragraph 2(C) of the Complaint which implicates Barstow, except admits, based upon information and belief, the source of such information and belief

being common knowledge derived from the public domain, that CHSPSC, with its principal office and place of business in Franklin, Tennessee, operates as a Limited Liability Corporation. Barstow further denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 2(C) of the Complaint which do not implicate Barstow, excepts denies the specific allegation that CHSPSC is engaged in the operation of Barstow, to the extent the allegations set forth by Paragraph 2(C) of the Complaint imply that CHSPSC is engaged in the operation of Barstow.

(3) Barstow denies each and every allegation set forth by Paragraph (3) of the Complaint.

(4) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph (4) of the Complaint.

(5) Barstow denies each and every allegation set forth by Paragraph (5) of the Complaint.

6(A) Barstow admits the allegations set forth by Paragraph 6(A) of the Complaint.

6(B) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 6(B) of the Complaint.

6(C) Barstow denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth by Paragraph 6(C) of the Complaint.

(7) Barstow admits the allegations set forth by Paragraph (7) of the Complaint.

8(A) Barstow admits the allegations as they relate to Ms. Miller. Barstow admits the allegations as they relate to Ms. Christensen, except denies that she was a supervisor of Barstow within the meaning of Section 2(11) of the Act.

8(B) Barstow denies the allegations set forth by Paragraph 8(B) of the Complaint that Ms. Ellis held the position of “Director, Employee Relations and / or Human Resources Representative” and avers that she held the position of “Director, Employee Relations.” Barstow admits that Ms. Ellis has been an agent of Barstow within the meaning of Section 2(13) of the Act and denies knowledge or information sufficient to form a belief as to whether Ms. Ellis has been an agent of CHSPSC or CHSI within the meaning of Section 2(13) of the Act.

9(A) Barstow admits the allegations set forth by Paragraph 9(A) of the Complaint.

9(B) Barstow admits the allegations set forth by Paragraph 9(B) of the Complaint.

9(C) Barstow denies the allegations set forth by Paragraph 9(C) of the Complaint.

(10) Barstow denies each and every allegation set forth by Paragraph (10) of the Complaint.

11(A) Barstow admits the allegations set forth by Paragraph 11(A) of the Complaint.

11(B) Barstow denies the allegations set forth by Paragraph 11(B) of the Complaint.

11(C) Barstow denies the allegations set forth by Paragraph 11(C) of the Complaint.

11(D) Barstow denies the allegations set forth by Paragraph 11(D) of the Complaint.

11(E) Barstow denies the allegations set forth by Paragraph 11(E) of the Complaint.

11(F) Barstow denies the allegations set forth by Paragraph 11(F) of the Complaint.

11(G) Barstow denies the allegations set forth by Paragraph 11(G) of the Complaint.

(12) Barstow denies each and every allegation set forth by Paragraph (12) of the Complaint.

(13) Barstow denies each and every allegation set forth by Paragraph (13) of the Complaint.

(14) Barstow denies each and every allegation set forth by Paragraph (14) of the Complaint.

FIRST AFFIRMATIVE DEFENSE

(15) Barstow avers that the Certification of Representative referenced by Paragraph 9(B) of the Complaint is not valid and is unenforceable as a matter of law, insofar as the Certification is the byproduct of a Consent Election Agreement, which was approved by the Board at a point when the Board lacked the quorum required by Section 3(b) of the Act. See Noel Canning v. NLRB, 134 S. Ct. 2550 (2014); New Process Steel, L.P. v. NLRB, 560 U.S. 674 (2010).

SECOND AFFIRMATIVE DEFENSE

(16) Barstow avers that the Certification of Representative referenced by Paragraph 9(B) of the Complaint is not valid and is unenforceable as a matter of law, insofar as the Certification was issued by

the Board at a point when the Board lacked the quorum required by Section 3(b) of the Act. See Noel Canning v. NLRB, 134 S. Ct. 2550 (2014); New Process Steel, L.P. v. NLRB, 560 U.S. 674 (2010).

THIRD AFFIRMATIVE DEFENSE

(17) The General Counsel is barred from any prosecution of the allegations set forth by the Complaint. See Jefferson Chemical, 200 NLRB 992 (1972).

Dated: Glastonbury, CT
April 22, 2016

Respectfully submitted,

/s/ _____

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**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8**

HOSPITAL OF BARSTOW, INC. D/B/A BARSTOW COMMUNITY HOSPITAL, COMMUNITY HEALTH SYSTEMS, INC., and / or COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION, LLC, a single employer and / or joint employers and CALIFORNIA NURSES ASSOCIATION / NATIONAL NURSES ORGANIZING COMMITTEE (CNA / NNOC)	31-CA-167522
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CERTIFICATE OF SERVICE

The Undersigned, Bryan T. Carmody, being an Attorney duly
admitted to the practice of law, does hereby certify, pursuant to 28 U.S.C. §
1746, that, on April 22, 2016, the document above was served upon the
following *via* email:

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Dated: Glastonbury, CT
April 22, 2016

Respectfully submitted,

/s/ _____

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